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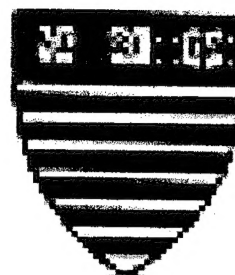
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A Vision for the 21st Century



JFK SCHOOL OF GOVERNMENT

Proceedings

Conference On Civil-Military Relations in Complex Humanitarian Crises

"FORGING PEACE"

March 13-15, 1998

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Executive Summary

Forging Peace was a three-day working conference on civil-military relations in complex humanitarian crises, co-sponsored by The Marshall Legacy Institute and the National Security Program of the Kennedy School of Government at Harvard University. It was held March 13-15, 1998 in Cambridge, Massachusetts.

Some 80 leaders, policy-makers and operational experts from government, military, academia, non-government (NGO) and international communities drew together in search of ways to improve crisis response mechanisms. Conference goals included the sharing of information, promoting greater understanding of institutional cultures, and developing specific processes and actions that ultimately will make a difference for operators on the ground.

The conference achieved its goals, owing to the depth of commitment, knowledge, and experience of the participants. A core group of prominent international leaders helped guide discussions and challenged participants to focus on "realistic and achievable" solutions. Plenary speakers further encouraged participants and laid the foundation for seven focussed working groups. Insightful, well-researched read-ahead papers enabled all working group members to begin their discussions on common ground. Highly experienced and dedicated Chairpersons led each of the working groups, which thoroughly debated specific issues within their operational areas.

Each working group successfully developed excellent recommendations that promise to improve civil-military coordination and response to humanitarian emergencies. The conference charged participating agency leaders and organization proponents to seek immediate implementation of key conference recommendations. These recommendations include actions for US Government bodies (Defense, National Security Council, State), International Organizations (including ECHO, ICRC, UNDPKO, UNOCHA and the four operational UN agencies), and non-government organizations (such as MLI, Oxfam, Refugees International and World Vision, which were represented at the conference).

Conferees remarked that important advances have been made in civil-military cooperation during humanitarian crises, but noted that much remains to be done. The advanced planning process and "pol-mil" plan derivative of Presidential Decision Directive-56 signed by the President in May, 1997, facilitate integrated planning among government entities, but better visibility, integration and coordination with other humanitarian actors is required. A humanitarian or "hum" component should be added to the pol-mil plan. The advanced planning process also should be internationalized, perhaps using the "Comprehensive Campaign Plan" as the vehicle.

Participants suggested that institutional responses often are driven more by personality than process, and recommended that this be reversed. They addressed the need for effective

cooperation at both the strategic policy guidance level and the operational activity level. They noted that the Civil-Military Operations Center (CMOC) has evolved since Operation Provide Comfort in Northern Iraq in 1991, but still no standardized concept exists for its operation, organization and equipment.

The conferees noted that the humanitarian dimension must be an integral part of international peace and security operations as the “cleansing” of opposing civilian populations is often the objective of today’s conflicts. They suggested that protection of the beneficiaries of relief requires as much emphasis as delivery of the relief supplies. They also recommended ratification of existing agreements that provide protection for the intervening international forces and humanitarian agencies.

A common thread of discussion throughout the conference was the need for an international and multilateral character for military interventions in humanitarian crises. The military generally serves a “support” role with a civilian main effort. The military involvement should be short-term with a planned transition to civilian actors and with a specified endstate linked to strategic purpose. They emphasized the need for a systematic process to incorporate humanitarian assistance issues in unified command contingency planning and exercises.

Preventive and intervention efforts should focus on indigenous capacity building, such as that envisioned in the African Crisis Response Initiative. This is particularly true with the scourge of landmines, which present over a dozen countries a complex humanitarian crisis today. Indigenous capabilities are needed to promote mine awareness, detection, clearance and victims’ assistance. Strong leadership and international coordination led by the UN with full support of major donor governments is essential, as is private investment and the formation of private-public partnerships to help build the indigenous programs.

The summary of proceedings includes detailed recommendations with specific actions to improve crisis response.

Forging Peace organizers and participants foresee follow-on workshops/seminars to facilitate implementation and refinement of recommendations as planners and practitioners continue on their journey to resolve complex humanitarian crises. The Marshall Legacy Institute also plans to publish a book on the conference theme in the fall of 1998.

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Introduction

This report summarizes the proceedings of the *Forging Peace* conference on civil-military relations in complex humanitarian crises, held at Harvard University in Cambridge, Massachusetts on March 13-15, 1998. The conference was co-sponsored by The Marshall Legacy Institute and the National Security Program of the John F. Kennedy School of Government.

Forging Peace was one of the first conferences of its kind to truly scratch below the surface and identify "solvable" problems with specific, realistic recommendations. The conference objective was to MAKE A DIFFERENCE in the field by finding ways to improve response mechanisms in dealing with the ever-increasing humanitarian crises that have inundated the international community in the post-Cold War era.

The conference agenda combined presentations by policy-makers, operational experts and senior officials from government, military, international and non-government organizations with working groups focused on seven specific areas in complex humanitarian crises: planning, operations, security, legal, medical, landmines and transition & post-conflict reconstruction.

These proceedings are not a verbatim transcript of the conference, but provide a summary of plenary session speeches and of presentations delivered by a core group of prominent international leaders. They also include recommendations developed by the seven working groups to improve civil-military cooperation and crisis response mechanisms.

Appendices include the conference agenda, acronyms, final list of attendees, background information on The Marshall Legacy Institute, and copies of the 16 read-ahead discussion papers.

The United States Army Medical Research and Material Command, the US Agency for International Development Office of Foreign Disaster Assistance, the Office of the Secretary of Defense for Special Operations and Low Intensity Conflict, and the United States Army Peacekeeping Institute provided funding and support for the conference.

Summary of Proceedings

Friday, March 13

1:00 PM

Welcoming Remarks

Dr. Joseph Nye

Dean, John F. Kennedy School of Government

Dr. Joseph Nye opened the *Forging Peace* conference warmly by welcoming the conferees to Harvard University and the John F. Kennedy School of Government. He congratulated the conferees and The Marshall Legacy Institute for taking on the challenge of dealing with one of the great challenges of our time, complex humanitarian crises, just as General George C. Marshall did following World War II.

He drew the analogy of the 1947 speech made by General Marshall just a few steps away in the Harvard yard, where Marshall called for the world to help a war-ravaged society. Dr. Nye likened the work of the conferees to that of those who responded to General Marshall's call, and remarked that they truly honor his vision.

Dean Nye noted that complex humanitarian crises are unfortunately the wave of the future. He commented that Operation Desert Storm was really a throwback to an earlier time when conventional warfare typified international conflict. He suggested that future conflicts would more likely resemble Operations Provide Comfort, Provide Hope, Restore Hope and Restore Democracy.

Dr. Nye concluded by offering the facilities of the Kennedy School to the conferees and wishing the organizers and participants the best of luck in their deliberations. He also expressed great interest in learning of the results and recommendations of the conference.

Friday, March 13

1:15 PM

Announcements & Conference Overview

Perry F. Baltimore III

The Marshall Legacy Institute

Perry Baltimore, Conference Director, discussed the organization of the conference and provided attendees with information regarding support services available to them during the conference.

He explained the role of the very distinguished *Forging Peace* core group of prominent leaders to focus the conferees' efforts and to challenge them to find practical solutions to real problems. He noted the role of plenary speakers to inspire conference work, provide food for thought and lay the *Forging Peace* foundation.

He identified the working group Chairpersons as seasoned, hard-charging leaders to guide discussions and to produce meaningful results and implementable solutions. He acknowledged the fine work of the authors who prepared 16 discussion papers that were circulated in advance of the conference to provide a common starting point for each of the working groups.

He explained the conference goals to ultimately MAKE A DIFFERENCE IN THE FIELD:

- Improve Crisis Response Mechanisms
- Promote Understanding
- Develop Processes and Actions
- Share Information

A breakdown by organizational background indicated that 35% of the attendees were from the military (active & retired), 15% were from international organizations, 20% were from non-government organizations, 15% were government officials, and 15% were academics.

COL (Ret) Baltimore provided an overview of how the conference would proceed. Following presentations by the plenary speakers and core group panel, attendees would divide into seven focused working groups:

- | | | |
|--------------|-------------|------------------------------|
| • Planning | • Legal | • Transition & Post-Conflict |
| • Operations | • Medical | Reconstruction |
| • Security | • Landmines | |

The working groups would organize Friday afternoon under the leadership of the Chairpersons. On Saturday they would brainstorm, discuss the read-ahead papers, and thoroughly debate the issues. Most importantly, they would recommend specific actions to be implemented in the field to enhance civil-military coordination/planning so as to respond more effectively to complex humanitarian crises. On Sunday the working group chairpersons would present a summary report and their key recommendations to the entire conference. Colonel Baltimore noted that the conference would conclude with a vision of the NEXT STEPS to be taken to insure *Forging Peace* would MAKE A DIFFERENCE.

Friday, March 13
1:20 PM
Plenary Session

GEN (Ret.) Gordon R. Sullivan, Chairman of the Board, MLI

General Sullivan expressed his thanks as co-sponsor of the conference for the outstanding turnout of distinguished conferees.

He reminded all participants that the conference was not a "destination" but a only a "journey" to find better ways for military and civilian groups to together in responding to humanitarian emergencies.

GEN Sullivan recalled several of the humanitarian crises the military responded to during his watch as the 32nd Chief of Staff of the United States Army. He enjoined the participants to focus on specific processes and actions that may be taken to improve crisis response mechanisms. General Sullivan then introduced the three plenary speakers.

Mr. Len Hawley, Director, Global Issues and Multilateral Affairs, NSC

Len Hawley provided an overview of Presidential Decision Directive-56, recent improvements to the PDD, and described limitations in planning for complex humanitarian crises.

He explained that PDD-56 is process-oriented and serves to reduce the complexity of operations, to integrate planning and unified management, and to add transparency to interagency planning efforts.

He outlined the key elements of PDD-56:

- Advance Planning Process
- Assistant Secretary-level Executive Committee
- POL-MIL plan
- Interagency Rehearsals
- After-Action Reviews
- Interagency Training

Mr. Hawley explained that the POL-MIL plan includes a comprehensive assessment, consensus on purpose, defines the scope of effort, clarifies agency responsibilities, and identifies disconnects.

He noted new developments since President Clinton signed PDD-56 in May 1997. The Interagency has undertaken advance planning for humanitarian crises, has formalized the staff estimate process and has added wargaming training for interagency participants. Mr. Hawley suggested that "Pol-Mil" thinking is starting to be a habit".

He discussed efforts to improve integration below the national level and to adapt existing structures, i.e. Unified Commands, Combined/Joint Task Force, USUN Mission & Special Representative of the Secretary General, and Country Team.

Mr. Hawley then discussed many of the limits on planning and suggested there are quite a number of things that we should, but do not, know:

- Dealing with Warlords
 - ⇒ Most complex emergencies cannot be settled permanently without some suitable agreement that includes both a new government and an integrated military structure.
 - ⇒ Experience has shown that full implementation of an agreement is elusive, in part hampered by the power and will of the strongman involved in the conflict.
 - ⇒ A recalcitrant strongman raises several policy issues but the most fundamental is this: A strongman is usually part of the problem, but should he be part of the solution? If not, what then?
- Political Endstate – Power Sharing
 - ⇒ Most settlements call for some kind of interim power-sharing arrangement, or they call for elections in some future time.
 - ⇒ We need better diagnostic tools to help us better understand ethnically divided societies and under what specific conditions power-sharing arrangements or elections would work to support peace and stability.
- Security Transitions and Capacity Gaps
 - ⇒ The security environment in a complex emergency is composed of many threats – military, civil disturbances, routine crime, arms control, threats to government officials, corruption, threats to relief supplies, terrorism, and so forth.
 - ⇒ When conducting complex contingency operations, what forces should we have in place to deal with each of these threats? What should we do about persistent gaps in our capabilities to respond to security threats?
- Force Protection
 - ⇒ Does humanitarian assistance during conflict make sense: Can humanitarian relief and its protection force remain impartial and still deliver humanitarian assistance?
 - ⇒ Who provides force protection to the relief effort: How far are we willing to go to deliver the assistance in a hostile environment?

Len Hawley provided the conferees three handouts: (1) the PDD-56 Advance Planning Process; (2) General Pol-Mil Staff Estimate; and (3) General Pol-Mil Plan.

Ms. Marguerite Rivera Houze, Deputy Assistant Secretary of State, PRM

Ms. Houze reviewed "lessons learned" in civil-military cooperation by highlighting her experiences in Bosnia. Ms. Houze focused her remarks on humanitarian assistance operations for refugees, internally displaced persons, and other conflict victims.

Ms. Houze made five essential points in her presentation. She argued that: (1) civil-military cooperation was, and continues to be, indispensable in Bosnia; (2) successful civil-military coordination requires effective cooperation at two levels- strategic policy guidance and operational activity at the field level; (3) effective coordination mechanisms must be compatible with the different organizational cultures of military and civilian elements; (4) protection, as well as assistance, is central to civil-military cooperation; and (5) a successful peacekeeping operation requires indigenous commitment as well as good international civil-military cooperation.

She reminded the conferees of the tense relationship in the early days of the crisis between the military forces (mostly European) and civilian humanitarian agencies. She noted that the civilian agencies, particularly the NGOs, often had strong political views about the "rights" and "wrongs" of the Bosnian civil war and were deeply suspicious of the military in general, which had not in the past been viewed as an ally of humanitarian aid. The military was not always sure how best to deal with a plethora of civilian humanitarian organizations, whose traditional patterns of interaction and cooperation were so loose and informal that they often seemed anarchic to military structures accustomed to a disciplined chain of command.

A lack of understanding as to the respective operational capabilities and limitations of the military and civilian components of the humanitarian/peacekeeping mission often compounded these differences in organizational culture.

These differences were, however, eventually bridged and civil-military cooperation during the Bosnian war years produced some impressive humanitarian results. UNPROFOR cooperation with UNHCR land convoys; the Sarajevo airlift; and the US-led air drop operations delivered tons of humanitarian aid that unquestionably saved thousands of lives.

Successful civil-military cooperation requires close coordination at two levels – the level of strategic policy guidance and the level of field operations. Coordinated action to address humanitarian problems in complex crises will fail if coordination falls short at either of these two levels.

At the strategic level, there needs to be coherence between the policy guidance given to military and civilian elements. Cooperation cannot succeed when the principal military and civilian actors in the field are operating from different planning assumptions about what should be achieved and how it should be achieved.

In Bosnia, civil-military operations were most strained when civilian humanitarian actors believed the military should have as its mission a very proactive role in support of humanitarian operations, while the military itself was defining its involvement in the civilian aspects of peace implementation in more limited terms.

Currently, there is much greater congruence between the strategic guidance given to military and civilian elements involved in humanitarian operations in Bosnia. Extensive diplomatic work – through the Peace Implementation Council (PIC), Contact Group (CG), NATO and OSCE – has been the key to ensuring this policy coordination at the strategic level. One can look at the policy guidance being formulated at NATO, in the PIC and in the UNHCR and OHR-led coordination efforts and read essentially the same line on key humanitarian issues, such as support for refugee return.

Effective mechanisms must be in place at the operational level that allow military and civilian elements to work together in a manner that respects their different organizational cultures. The military-staffed air cell at UNHCR during the Sarajevo airlift was an example of effective operational coordination. During the IFOR/SFOR period, mechanisms such as the CMOC and coordinated procedures for return of refugees and internally displaced persons (IDPs) to sensitive areas in the Zone of Separation (ZOS) have helped improve operational coordination.

UNHCR and SFOR are working to tap the vast amounts of information available to the military that can assist in humanitarian planning in Bosnia. They have established the Repatriation Information Center (RIC), which publicizes information on refugee return gathered, in part, from unclassified data collected by CIMIC.

Another lesson learned from Bosnia is that effective coordination cannot be limited to just the delivery of humanitarian assistance. The physical and legal protection of the victims is at least as important, and perhaps more important, than simply delivering food and blankets.

The continuing cooperation of SFOR, UNHCR, and the International Police Task Force (IPTF) to ensure the protection of Bosnians returning to areas where they are in the ethnic minority is perhaps the most impressive example of civil-military cooperation in support of humanitarian operations in Bosnia today.

Ms. Houze cautioned that civil-military coordination is a necessary, but not sufficient, condition for operational success. Also required are cooperation and a shared commitment from the indigenous political and military elements.

Mr. Kofi Asomani, Director, UNHCR Liaison Office at UN HQs

Mr. Asomani began his presentation by thanking The Marshall Legacy Institute and the Kennedy School for the invitation to participate in the Forging Peace conference. He explained that developing a framework of civil-military relations has been a top priority for UNHCR since

1991, when UNHCR worked closely with the first large-scale military humanitarian operation, Operation Provide Comfort for Kurdish refugees.

He discussed the changing environment and nature of today's conflicts, characterized as largely internal ethno-group confrontations in which displacing or "cleansing" the civilian population of the opposing side is the very objective of the conflict. This explains the massive magnitude of human suffering caused by recent conflicts, and why the *humanitarian* dimension must be an integral part of international peace and security operations.

In 1991 the UN Security Council implicitly recognized that mass and forcible movements of populations can constitute a threat to international peace through passage of Resolution 688. It allowed action by coalition forces under Chapter VII of the UN Charter, and provided the security framework for the displaced Kurds in Northern Iraq. Since then the Security Council has increasingly discussed humanitarian issues. Thus, the changing environment indicates that the objectives, principles and doctrines of military deployment today must address the humanitarian dimension.

Mr. Asomani noted that the Secretary-General requested the UNHCR to take the lead in studying the issue of protection of humanitarian assistance to refugees and others in conflict situations and to draft his report to the Security Council.

He recalled the guiding principles for humanitarian actions, which include protection and safety of civilians, in addition to the delivery of relief assistance. He noted that humanitarian action is guided by international humanitarian law and is strictly impartial, neutral and non-political. This sometimes creates friction when working with military forces that are normally political tools of governments.

Mr. Asomani discussed three models of civil-military relations. One is found where military forces are deployed outside the UN framework but under the authority of the Security Council. The significance of this model is the firm political will and commitment expressed by (certain) members of the international community. He argues that military forces and humanitarian agencies can work together under this model "so long as we and all parties understand and respect that the founding premises of our respective operations are different, and we complement each other's activities". He offers Operation Provide Comfort and post-Dayton Bosnia as successful examples of collaboration. He suggests an example of a failure of international community is the lack of consensus in the Security Council to establish the multinational force for eastern Zaire in the autumn of 1996 with a robust mandate to separate armed elements from civilian refugees.

A second model, which he argues is more problematic, is where conflict is still on-going, particularly in a UN peacekeeping operation deployed under Chapter VII, as experienced in Bosnia. "Where military enforcement action is called for in an integrated UN operation which includes both humanitarian organizations (UNHCR) and military force (UNPROFOR), the impartiality of the humanitarian organization may be compromised particularly in the eye of the

warring factions. Conversely, the absence of a clear mandate, in an open war situation, for an international military force can also be a liability for those associated with it."

The third model he identified is military assistance to humanitarian efforts, such as the Sarajevo airlift and the early stages of the Rwandan refugee crisis in 1994. He describes the military contribution as "a support function provided to humanitarian organization, mainly in the form of logistics, transport and technical assistance". Based on the experience of the 1994 Rwandan crisis, UNHCR, together with governments, developed "service packages", which can be mobilized in sudden and massive humanitarian emergencies.

Mr. Asomani flagged a number of key issues for reflection of the conferees:

- A military operation should not be manipulated or guided only by national political interests when it is deployed alongside humanitarian actors. It should retain an international and multilateral character.
- Humanitarian organizations should request military support only when no civilian alternatives exist. This support should be short-term with a planned hand-over to civilian actors.
- There is a need to develop a mechanism for integrated strategy formulation, planning and decision-making among the various actors involved in crisis management. A comprehensive strategy aimed at resolving the root causes of the conflict should cover political, military and humanitarian aspects.
- There is a need to develop a strategic capacity, backed by political will, in the international community to analyze crisis situations and identify the best model of operation involving various actors and framework for cooperation. Robust rules of engagement may be counter-productive.

Mr. Asomani allowed that much progress has been made since 1991 and that close cooperation among the actors is accepted as the most solid basis for conflict resolution. It is important to build upon these accumulated experiences.

Friday, March 13

3:15 PM

Core Group Panel Discussion

Daniel Layton, Moderator

Executive Director, The Marshall Legacy Institute

LTG (Ret) James Terry Scott, Director, National Security Program

LTG Scott challenged all conferees to reflect on the question of when, why and under what conditions should the United Nations lead, manage and control crisis interventions? When should the United States? Other nation states? Coalitions? Regional Organizations?

Ambassador H. Allen Holmes, Assistant Secretary of Defense for Special Operations

Ambassador Holmes began his presentation by thanking General Sullivan and Terry Scott for the splendid initiative of the conference and recalled an historical anecdote. He noted that civil-military relations in complex crises have come a long way since General Eisenhower complained to George Marshall after the opening of Operation Torch in North Africa in 1942, "the sooner I can get rid of these questions that are outside the military in scope, the happier I will be!". Amb. Holmes explained that the questions Ike was referring to are quite familiar today: coping with refugees, economic issues, getting communities back on their feet, turning matters over to civilian authorities, etc.

He urged conferees to look for concrete, practical solutions. He noted the significance of the challenge and explained he looked forward to hearing their findings.

He suggested examination of the following:

- What can we do to operate with greater efficiency while reducing risk to outsiders?
- How can the international community better develop indigenous capability that is effective, affordable and sustainable?
- Are we positioned to tackle emerging dangers such as a potential chemical/biological incident?

He noted that coordination and unity of effort are essential in international crisis response. He identified two critical elements involved in complex contingency operations: (1) determining the desired end state prior to commitment of significant resources (linked to strategic purpose as discussed by Len Hawley); and (2) developing a comprehensive plan to reach the end state.

Amb. Holmes indicated the USG has recognized the need for integrated planning among all relevant government entities, but suggested it is also necessary to have visibility into the plans of

other crisis response actors. These primarily include foreign militaries, civilian organizations from foreign governments, international organizations, private relief providers (NGOs), and the private business sector.

He explained that DoD should be a supporting entity, enhancing the ability of civilian organizations to respond to a large-scale crisis when the civilian organizations are overwhelmed or where DoD has unique capabilities.

He noted DoD constraints, namely a tight budget environment, downsizing and multiple responsibilities.

Amb. Holmes suggested that the most efficient and effective way to manage crises and maintain regional stability is by building an indigenous response capability before a crisis hits. He offered four examples:

- Humanitarian demining training by US Special Operations Forces (SOF) in Cambodia
- BRAVA (Blast Resuscitation and Victim Assistance), a joint program spearhead by the DoD medical organization with extensive help from ICRC and NGOs
- ACRI (African Crisis Response Initiative) – Amb. Holmes deferred further comment to Marshall McCallie, ACRI Special Coordinator, who was also a core group member
- Haiti - a complex peace enforcement operation where the presence of US Forces, particularly SOF, was to jumpstart the reconstruction of communities and local leadership

Ambassador Marshall F. McCallie, Special Coordinator, ACRI

Ambassador Marshall McCallie presented remarks on the African Crisis Response Initiative (ACRI) for which he is the Special Coordinator. He explained the goal of the ACRI is to enhance the capacity of African partners to respond to humanitarian crises and peacekeeping challenges in a timely and effective manner. This is a common goal that reflects the sentiment of the international community, the UN Secretary-General, and numerous African leaders.

He spoke of the ACRI in the broad context of multinational peacekeeping training. He noted that some African countries have been conducting peacekeeping operations throughout the world for years. He acknowledged the efforts of ECOMOG peacekeepers in Liberia and an impressive exercise by troops of ten Southern African states in Zimbabwe as examples of African peacekeeping accomplishments. He further addressed the very productive peacekeeping training partnerships between African and several European states, including Britain, Denmark and France.

Amb. McCallie discussed the history of the initiative and the extensive diplomacy and consultation with African and European capitals, the United Nations and the Organization of African Unity. The consensus advice was to create an interoperable capacity, not a force.

Britain, France and the United States reached an agreement in May of 1997 to support a coordinated peacekeeping training effort in Africa based upon long-term capacity enhancement, legitimacy, openness and transparency.

ACRI concentrates on Chapter VI peacekeeping and emphasizes training. Amb. McCallie explained that this capacity-building initiative follows two tracks. The first is bilateral in which US Special Forces (SF) initially train African battalions to a common standard, with emphasis on basic soldier skills, working with refugees, operating effectively with humanitarian organizations and the observance of human rights. This initial training has been completed in Malawi, Senegal and Uganda. Mali is in process, with Ghana and Ethiopia coming up. SF teams later provide sustainment training and command post exercises, highlighting logistics, battalion and brigade leadership, train-the-trainer skills, and development of civil-military operations in humanitarian emergencies.

The second track is on the diplomatic front to actively explore with other countries the means of generating greater confidence and cooperation in peacekeeping training. Significant progress was made on December 5, 1997 when some 60 nations attended an informal meeting held by Under Secretary-General for Peacekeeping Operations Bernard Miyet to discuss how best to coordinate mutual efforts. Amb. McCallie suggested this meeting laid the foundation for broad international cooperation.

He allowed that neither ACRI nor any other international training initiatives were likely to address fully the range of problems subsumed under Africa conflict management. However, he added that preparing for peacekeeping is an important element in creating stability and sustaining an environment of safety and security.

Ambassador McCallie concluded by saying, "With strong African leadership and willing external partners, we can as an international community make a difference."

Ms. Priscilla Clapp, State Deputy, Global Humanitarian Demining Office

Priscilla Clapp began by noting that demining and ridding the world of the scourge of landmines is indeed a complex humanitarian crisis. She praised Gen. (Ret.) John Arch MacInnis for the discussion paper he prepared as a read-ahead for the working group on landmines. She remarked that the MacInnis paper presents an excellent and concise description of the problem.

She noted the enormity of the global landmine challenge. Millions of landmines maim, kill and threaten innocent civilians in more than 60 countries and severely inhibit economic development in nations that need it most. The recent landmine ban campaign created a lot of momentum for the international community to deal with the problem. She indicated that strong leadership is now required, as resources are beginning to come in at a greater rate, and order is needed in the process to insure the opportunity is not squandered.

Ms. Clapp commented on the Global Humanitarian Demining 2010 Initiative launched by the Secretaries of State & Defense in October 1997 to greatly accelerate actions to end the plague of landmines posing threats to civilians by the year 2010. She characterized this US-led initiative as an excellent example of Department of State and Department of Defense cooperation. She recognized her counterpart and fellow conferee, Major General William Garrett, as the Military Deputy to the President's Special Representative for Global Humanitarian Demining, Ambassador Karl Inderfurth.

She explained an objective of the 2010 Initiative is to raise the level of international investment in humanitarian demining from both public and private sources to \$1 billion a year for a decade or so. Since 1993, the US has been the largest national demining donor, with an investment in excess of \$150 million. Ms. Clapp noted the US has significantly increased its spending on demining programs and expects to reach a \$100 million investment in the coming fiscal year. Other countries are also pledging more. The US is hosting a conference in Washington DC in late-May to aid in this effort.

The US has been active in 17 mine-affected countries and will likely expand to some 21 next year. Programs are implemented in cooperation with international agencies and host governments. The US provides training, expertise and equipment primarily through programs administered by DoD. The State Department provides funding to build indigenous programs.

She commented on efforts for seeking more practical and affordable solutions to mine detection and clearance. Ms. Clapp also noted that without better mechanisms for international cooperation and coordination, these resources might not have the impact we need. International coordination begins with the UN, but the UN can only be effective if it gets the full support of the major donor governments and the interested community outside government.

Ms. Clapp concluded by noting the need to find creative ways of facilitating private investment and talent in the private sector that should join the public sector in cooperative partnerships.

Plenary & Core Group Discussion Recommendations

- Add humanitarian component to "pol-mil plan"
- Incorporate humanitarian actions in the advanced planning process
- Emphasize process over personality in crisis planning
- Improve methods of sharing information among government, military, international and humanitarian organizations

Friday, March 13
4:30 PM
Working Group Discussions

Planning Working Group

1. Chairmen:

- Professor Arthur "Gene" Dewey, US Army Peacekeeping Institute
- Mr. Michael Elmquist, United Nations Office for the Coordination of Humanitarian Assistance

2. Members:

- Colonel (Ret) William Clontz, MPRI
- Mr. Thomas Dolan, Office of Foreign Disaster Assistance
- Mr. Len Hawley, National Security Council
- Ambassador Marshall McCallie, STATE/ACRI
- Ms. Angela Raven-Roberts, UNICEF
- Mr. Lionel Rosenblatt, Refugees International
- Captain David A. Schneegas, US Navy
- Mr. John Zavales, OSD/HA

3. Advance Papers:

- US Military Planning for Complex Humanitarian Emergencies – The Troubled Planning Environment by Walter Clarke.
- Formalizing Relations between DOD and OFDA in Complex Humanitarian Crises – An Interview with Tom Dolan, OFDA by Anita Parlow.

4. Discussions:

This working group focused on the state of planning for complex emergencies. Its goal was to suggest a framework that better enables the government, military, humanitarian and international organizations to respond to crisis situations. The group explored how the civilian and military components forge workable exchanges, particularly at the unified command level, and how the pre-decision planning process, strengthened by routine sharing of information, impacts operations.

Summary of working group results and recommendations may be found on pages 25 and 26.

Friday, March 13

4:30 PM

Working Group Discussions (con't)

Operations Working Group

1. Chairmen:

- Colonel Karl Farris, US Army, Ret.
- Mr. William Garvelink, Office of Foreign Disaster (OFDA)

2. Members:

- Ms. Nan Borton, former Director, OFDA
- Mr. Thomas Marshall, SAIC
- Mr. Andrew Natsios, World Vision
- Ms. Anita Parlow, Consultant
- Mr. Gerard Peytrignet, ICRC
- Colonel Mark Swanstrom, Joint Staff
- Colonel (Ret) Richard Naab, Friend of Kurds

3. Advance Papers:

- Operations in Complex Humanitarian Crises – Provide Comfort by Colonel (Ret) Richard Naab
- Harmonizing the Military with Other Agencies and Local Populations in Complex Emergencies by Lieutenant General (Ret) Daniel Schroeder and Colonel (Ret) Karl Farris.

4. Discussions:

This working group reviewed critical elements of operations, such as communications and coordination, on the ground to maximize strengths of the civilian and military components of an operation, particularly at the Joint Task Force (JTF) and civilian equivalent level. An operating premise is that the Civil Military Operations Center (CMOC) offers the best model for an effective civilian-military structure. Its focus was on appropriate roles and how components mesh both vertically and laterally.

This group reviewed the interface between the JTF, Office of Foreign Disaster Assistance (OFDA) Disaster Assistance Response Teams (DART), NGOs and international agencies. It examined the evolution of the CMOC in complex emergencies from Northern Iraq, Somalia and Rwanda to Haiti and Bosnia. Summary of the operations working group results and recommendations may be found on pages 27 and 28.

Friday, March 13

4:30 PM

Working Group Discussions (con't)

Security Working Group

1. Chairmen:

- Major General Kenneth Bowra, US Army Special Warfare Center and School
- Mr. Filippo Grandi, UNHCR

2. Members:

- Mr. Gregory Alex, UNOCHA
- Mr. Peter Bradford, OFDA
- Mr. Thomas Callahan, World Vision
- Lieutenant Colonel James M. Castle, US Army
- Mr. Sean Greenaway, ECHO
- Dr. Andrew Harris, Anser
- Dr. Kathleen Newland, Carnegie Endowment for Int'l Peace
- Mr. Marc B. Powe, UNICEF
- Colonel Steve Riley, USAWC/PKI
- Mr. Barham Salih, PUK

3. Advance Papers:

- Joint Peacekeeping Operations and Humanitarian Assistance: A Discussion of the United Nations Assistance Mission to Rwanda - Its Achievements and Shortcomings by Gregory Alex
- Humanitarian Security: Challenges and Responses by Sean Greenaway and Andrew Harris

4. Discussions:

This working group addressed the requirement and challenges to providing security. It examined the variety of contexts in which security may be provided, and the impact of an intervening force on humanitarian organizations and indigenous populations. The group reviewed appropriate roles and expectations of NGOs and the military, with particular attention to integration. Security challenges posed in Somalia and the Great Lakes region of Central Africa provided central case studies.

A summary of working group results and recommendations may be found on pages 29 through 31.

Friday, March 13
4:30 PM
Working Group Discussions (con't)

Legal Working Group

1. Chairmen:

- Colonel Phil Johnson, OSD/GC
- Mr. Ngonlardje-Kabra Mbaidjol, UNHCR

2. Members:

- Mr. Arthur Helton, Open Society Foundation
- Mr. Peter Rosenblum, Harvard Law School
- Dean Charles S. Rudnick, Chicago-Trent College of Law
- Mr. Walter Gary Sharp, Sr., AEGIS Corporation
- Lieutenant Colonel William H. Walker IV, US Air Force

3. Advance Papers:

- Legal Dimensions of Responses to Complex Humanitarian Emergencies by Arthur C. Helton, Esq.
- Legal Principles Governing Refugee Issues and New Challenges by Mr. Ngonlardje-Kabra Mbaidjol
- Forging Peace: Protecting Those Who Serve by Walter Gary Sharp, Sr.

4. Discussions:

This group reviewed legal ramifications that slow or impede efficient operations. It focused on refugee protection and the internally displaced. It discussed transborder and other legal issues that challenge mandates that may be outmoded. The working group discussed recommendations regarding the legal framework to improve the effectiveness of operations in complex crises. It reviewed the limits of the 1951 Convention that mandates the scope of UNHCR's responsibility to protect refugees. The working group also focused on status agreements and other issues involving host nation concerns for sovereignty, and the needs for legal protections for intervening forces and agencies.

A summary of working group results and recommendations may be found on pages 32 through 35.

Friday, March 13

4:30 PM

Working Group Discussions (con't)

Medical Working Group

1. **Chairman:** Brigadier General Patrick D. Sculley, US Army Center for Health Promotion and Preventive Medicine

2. **Members:**

- Dr. Lois Davis, RAND
- Mr. Michael Kerouac, RemeCare
- Lieutenant Colonel Alfred C. Faber, Jr., US Army
- Dr. Jennifer Leaning, PHR
- Mr. Robert Leitch, CCRC
- Mr. James Nickerson, Weymouth Board of Health
- Mr. Joseph Pallone, MLI
- Mr. Arthur Helton, Open Society Foundation

3. **Advance Papers:**

- Healthcare Challenges for the Military in Complex Humanitarian Crises by Colonel (Ret) Robert Leitch
- Military Health System 2020: Fact Sheet by Brigadier General Patrick D. Sculley

4. **Discussions:**

This working group discussed the degree to which the US military should address indigenous medical needs as well as the requirements of its own force. Complex humanitarian emergencies present enormous health challenges often in nations with inadequate medical capabilities.

Discussion topics included information technology and the sharing of medical information; medical responses to biological or chemical contamination; and incorporating response mechanisms into a comprehensive strategy for post-conflict reconstruction.

A summary of working group results and recommendations may be found on pages 36 through 38.

Friday, March 13

4:30 PM

Working Group Discussions (con't)

Landmine Working Group

1. **Chairmen:** Major General (Ret) John Arch MacInnis, Canadian Army
Colonel (Ret) Daniel H. Layton, The Marshall Legacy Institute

2. **Members:**

- Colonel Jacques Baud, UNDPKO
- Ms. Priscilla Clapp, STATE/GHDO
- Major General Joseph Garrett, USA/GHDO
- Mr. Juha Moisisio, MLI
- Lieutenant Colonel Steven Ransley, UNOPS
- Colonel Victor Raphael, STATE/PM
- Mr. Larry Thompson, Refugees International

3. **Advance Papers:**

- Landmines, Peacekeeping and Technology by Colonel (Ret) Daniel Layton
- Mine Action: Towards A Framework for Coordination by Major General (Ret) John A. MacInnis
- Peace Support Operations and Mine Action by Major General (Ret) John A. MacInnis

4. **Discussions:**

This working group addressed the challenges of executing operations in mined areas and mine action across the entire spectrum of awareness, detection, clearance and victims' assistance. The dangers posed by landmines in recent humanitarian operations, and their devastating impact on indigenous populations, illustrate the need for an effective approach to this challenge.

The group focused its discussions in two critical areas: (1) mine action in support of peace operations and (2) coordination of humanitarian mine action. It noted that demining operations have occurred as an afterthought and have not been viewed as an integral part of peace support operations. It discussed the need to apply recent lessons learned, as follows:

- Action to address the mine problem must begin as early as possible, even before the peace process begins
- The peace process itself should address the mine issue by setting out the political and infrastructure framework deemed necessary to begin a mine action program

- A plan must address all elements of mine action, not just mine clearance.
- The principle of comparative advantage should apply: those who are mandated, capable and available should carry out the plan and do the job.
- A common set of standards should be in place.
- The ultimate responsibility for addressing the mine problem rests with the concerned state and local authorities.

The working group examined the challenges of coordinating humanitarian mine action among the diverse groups of actors involved, including governments, militaries, international organizations, NGOs, private companies, etc. It discussed the need to coordinate the global approach to humanitarian mine action at the strategic level and in-country activities at the tactical level.

It felt that with the promise of extensive resources becoming available, the global problem can be effectively resolved first through the adoption of a common set of principles, objectives and priorities, followed by the conduct of an accurate and honest assessment of the mine problem itself. The group suggested a common set of criteria to determine if the objectives of a mine action program could be met:

- The socio-economic impact of the mine-infestation, with priority given to humanitarian concerns
- The capacity of the target state or region to handle the problem
- The security situation, especially if conflict is ongoing or likely
- Probability of continued mine use
- The degree of political will to accept a program.

A summary of working group results and recommendations may be found on pages 39 through 41.

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Friday, March 13

4:30 PM

Working Group Discussions (con't)

Transition & Post-Conflict Reconstruction Working Group

1. **Chairman:** Major General (Ret) William Nash, JFK School of Government

2. **Members:**

- Colonel Michael Dziedzic, National Defense University
- Colonel Michael Hess, 353rd Civil Affairs
- Captain Stephen Mannell, US Army
- Dr. Johanna Mendelson, World Bank
- Mr. David C. Mitchell, OSD
- Ms. Jennifer Otsea, UNHCR
- Mr. Alan A. Rubin, NMS
- Dr. Stanley W. Samarasinghe, Tulane University
- Mr. Marc Summers, OXFAM America
- Mr. Hoshyar Zebari, KDP

3. **Advance Papers:**

- Forging Peace: Policing the New World Order by Colonel Michael J. Dziedzic
- Clearing the Bureaucratic Minefields: The CIMIC/USAID-DART Relationship in Bosnia by Colonel Michael E. Hess and Robert Gersony

4. **Discussions:**

This group reviewed the planning, development, coordination and adequacy of transition strategies for post-conflict reconstruction. It discussed facilitating transition back to host control. The group highlighted the need to build indigenous capacity without creating a culture of dependency. It discussed methods of determining when basic stability and sustainable development have been achieved. It discussed variables to measure progress toward basic stability in four life-sustaining categories:

- Food (Food prices, food availability in markets)
- Shelter (Housing construction rates)
- Health (Mortality rates)
- Physical Security
 - Military (Level of organized armed conflict, level of insurgency)
 - Civil (Crime rate, level of impunity)

The transition working group discussed the three overlapping phases in a complex humanitarian crisis intervention as depicted in Figure 1 below.

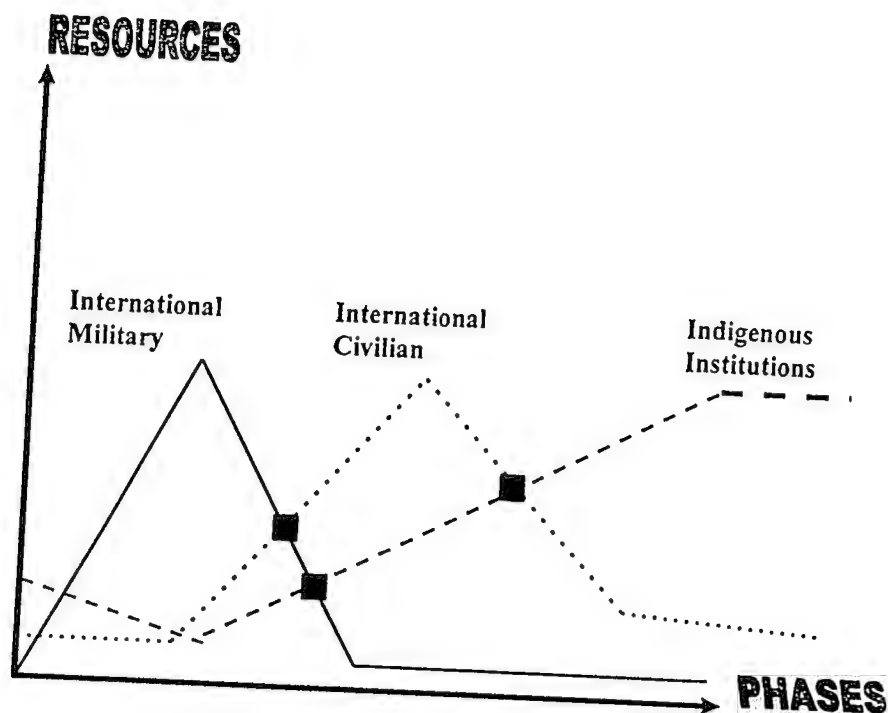


Figure 1*

The working group also discussed variables to measure progress toward sustainable development in five critical areas:

- Governance (Functioning institutions, respect for human rights)
- Economy (Investment, output/production)
- Social/Cultural Institutions (Human development indicators)
- Infrastructure
- Environment

The working group presented a possible framework for analysis in its summary of issues and recommendations, which may be found on pages 42-44.

* Small boxes represent points where primacy of effort shifts from military to civilian to indigenous institutions.

Saturday, March 14
11:45 AM
Luncheon Presentation
Nan Borton

Ms. Nan Borton, former Director, Office of Foreign Disaster Assistance

Ms. Borton treated Forging Peace conferees with an inspiring luncheon address, which she entitled "A View from a Slight Remove", as she retired from US Government service this past year.

Ms. Borton noted the immense value of the Forging Peace conference. She discussed the distance we have come since 1989 and the collapse of the Berlin Wall. She reflected on the challenges the conferees are addressing.

She noted that humanitarian action is still not seen as essential in crisis response planning. The focus continues to be on political activity and security operations, while humanitarian action is not considered a "real player". Part of the problem is the continuing "ad hococracy" in which solutions are based on who you know, not how the system works.

Our institutions are outdated; created 100-300 years ago to deal with nation-states; new ones are needed. She argues that conflicts are no longer interstate, but intrastate, as in Goma, in Pale, in Zakho after '92. There is no return to status quo ante, as in Eastern Zaire, in Somalia, probably in Sudan. The warring parties largely are not part of the gentleman's agreements of international humanitarian law. They decide when it is over, not us.

George Marshall in a profound way shaped new institutions to carry out his vision. That is his legacy and he would like to see us what we're doing in this conference. We are engaging at this conference in trying to forge, not just peace, but the implements of peace- new institutions and new understandings of power.

Saturday, March 14
12:30 PM
Luncheon Presentation
Andrew Natsios

Mr. Andrew Natsios, Executive Director, World Vision

Mr. Natsios also delivered a motivational address to the luncheon guests. He remarked that one of the reasons the Marshall Plan worked was that General George Marshall had a coherent strategy that worked in an extraordinary way.

He commented that all Americans think all problems can be fixed, and fixed quickly. He noted that the North Korea problem is unbelievably complex. The Pentagon believes we are insane to inject a large amount of food into a country with which we may have to wage war. He noted that many countries, particularly in the Far East, have a very different world view – 30 or 40 years is not a long time!

He discussed the Natsios corollary to a quantum mechanics principle: the longer a complex emergency lasts, the more factions you get. The longer the struggle is protracted, the more factions form.

He also discussed the Law of Unintended Consequences, which he argues is particularly true and operative in the business of humanitarian crisis response. The more chaos there is, the more the elite are diminished, leave, or become demoralized, the more unintended consequences result.

He then offered the US Government crisis response in Somalia as an example.

The Office of Foreign Disaster Assistance sent Fred Cuny and Jim Kunder to Somalia in August 1992. They reported 60% of food being sent is not getting to the people who need it. The *food* being sent to prevent starvation *is actually causing a huge problem* - rice was like gold bullion – a valuable commodity and people were fighting to get it.

Cuny said not to send all US troops into a single location. Somalis saw US troops as a source of food and security and flocked to their location. US troops all deployed into Mogadishu for logistics reasons and the number of internally displaced actually *increased 25%*!

Sunday, March 15
9:00 AM
Working Group Presentations

Planning Working Group Issues and Recommendations

by

Professor Arthur Dewey, US Army Peacekeeping Institute, Co-Chairman

&

Mr. Michael Elmquist, UNOCHA, Co-Chairman

Issue #1 - Agencies engaged in crisis response lack a common definition for complex humanitarian emergencies.

Recommendation – Use the following as a common definition: A complex humanitarian emergency (CHE) is an acute man-made disaster, sometimes accompanied by a natural disaster, and often involving a multinational military force.

Issue #2 – Agencies engaged in crisis response need realistic assumptions to develop plans for intervening in complex humanitarian emergencies.

Recommendation – The US and UN should use the following set of assumptions to develop strategic/operational plans for military intervention in CHEs:

- The operation will be multilateral, involving other nations and international organizations. UN, regional, and ad hoc coalitions are possibilities.
- The operation will maximize multilateral disaster response by using existing systems. UNHCR, UNHCHR, UNICEF, WFP, UNOCHA, ICRC, and IOM will be responsible for specific aspects of CHE response.
- Military forces will be used primarily for unique military tasks. The military will perform humanitarian functions only when humanitarian organizations lack the capacity/capability.
- The triggering event for involvement of military forces in CHEs will likely be a humanitarian and/or human rights problem, rather than traditional geo-political considerations. In fact, humanitarian disasters can create adverse geo-political consequences.
- The main effort in the operation is civilian, with the military in support.

- The multinational force is impartial with respect to factions, but is not neutral with respect to innocent victims.
- Civilian and military components of the operation will be synchronized to facilitate handoff to the next phase or to the host nation.
- Media coverage may accelerate pressures for intervention and withdrawal.
- Planning will focus on transition from the beginning.

Issue #3 – CHEs require intense management of information, but adequate information about the region and information-gathering systems often do not exist when the CHE response begins.

Recommendation – Use the IRIN (inter-Regional Information Network) as a possible model for this management process.

Issue #4 – There is a need to enhance multilateral competence in crisis response planning.

Recommendations:

- Implement training in multilateral capability in Foreign Service and military education systems.
- Provide multilateral capability handbooks to all planning staffs.
- Ensure credibility of multilateral competence through promotion and assignment.
- For each CHE, carefully support the review and selection of key leaders for multilateral competence.
- Identify the lead agency and lead individual (SRSG) early for effective planning.

Sunday, March 15

9:00 AM

Working Group Presentations (con't)

Operations Working Group Issues and Recommendations

by

Colonel Karl Farris, US Army (Ret), Co-Chairman

&

Mr. William Garvelink, OFDA, Co-Chairman

Issue #1 - There is no systematic process that incorporates humanitarian assistance issues in contingency and operational planning and training for complex emergencies at the unified command level.

Recommendations:

- Establish a requirement at the unified command level for periodic staff training in complex emergencies.
- Assign a humanitarian advisor to CINC staff.
- Designate the Unified Command J-5 and the humanitarian advisor (HUMAD) as the staff focal points for complex emergency planning and training.
- Develop a standard job description for the humanitarian advisors (Action Agents: JCS, Unified Commands and OFDA)

Issue #2 – There is an absence of an overarching, international, permanent organization to provide current information, such as description of organizational capacities and constraints to operations for humanitarian planning and response in countries at risk.

Recommendations:

- Establish a Global Humanitarian Coordination Center – a permanent organization connected to all participants (military, UN, NGOs, IOs, governments) that will exchange open source information, provide a capacity data bank, and, on call, provide regional and technical humanitarian expertise.
- Create a standing CMOC within each Unified Command by additional duty J-staff assignment to conduct annual humanitarian staff training exercises

with other providers and to coordinate with the Global Humanitarian Coordination Center.

Issue #3 – Government, military and civilian agencies involved in humanitarian crisis response have widely divergent perspectives, cultures and career paths which adversely affect integrated planning and execution in complex emergencies.

Recommendations:

- Formulate junior and mid-level emergency planning courses at the National Defense University and the Foreign Service Institute for interagency organizations and non-government organizations.
- Conduct field level courses at USACOM for junior and mid-level interagency organizations/Joint Task Forces/non-government organizations.
- Require graduates of these courses to serve for a period of time in planning positions of other agencies/non-government organizations.

Issue #4 –The big business of humanitarian aid, coupled with the growth and diversity of non-government organizations, expanded budgets, information availability and the complexity of humanitarian crises complicate the military/NGO relationship.

Recommendations:

- To coordinate and control NGOs, OFDA and ECHO should strengthen their vetting capacity through focused funding.
- Conduct civil-military familiarization focus sessions where standard operating procedures and constraints, mandates and joint needs/concerns are shared.
- Expand the practice of seconding Civil Affairs officers to the larger NGOs.

Sunday, March 15

9:00 AM

Working Group Presentations (con't)

Security Working Group Issues and Recommendations

by

Major General Kenneth R. Bowra US Army, Co-Chairman

&

Mr. Filippo Grandi, UNHCR, Co-Chairman

Issue #1 - There is currently no common framework for the humanitarian community to assess the security threat and plan for security operations.

Recommendations:

- Fully integrate security planning with that of all the other functions of operations in complex humanitarian crises.
- Develop common methodology for strategic security planning and threat assessment so that all humanitarian agencies are looking at the same sets of indicators, conditions, and criteria.
- Establish apparatus for collection and analysis of security intelligence. The United Nations as the paramount international organization is already working on means of collecting and analyzing data and reports from their field agencies in order to provide early warning and to direct planning and operations. This capability should be expanded to develop a database accessible by accredited humanitarian organizations throughout the world. Expanded coordination with national intelligence agencies by the UN would provide better technical intelligence to the UN and could benefit national intelligence with human intelligence (HUMINT) indicators.
- Develop a predictive paradigm for security response. Expand the conceptualization of the humanitarian security triad (Figure 2, below) with more extensive criteria to determine security risk. Develop a menu of courses of action for response to these risks to assist humanitarian agencies in training, planning and field operations.
- Fund and provide technical expertise to implement these proposals.
- Institutionalize security education and training among humanitarian agencies. Consolidate and disseminate the solid programs developed by

several international organizations and humanitarian agencies under the auspices of a lead agency, perhaps the UN Security Coordinator (UNSECOORD) in coordination with UNOCHA for integration with the other functions of humanitarian assistance.

- Address the UN issues creatively and comprehensively in the context of the follow-up to UNGA 52/45.
- Donors must provide discipline to validate humanitarian agency security plans. The organizations who fund humanitarian agencies must support development and training of the methodology proposed here and must make adequate security planning a prerequisite to grant approval.
- Donors must be responsible to provide any necessary security support, particularly non-military, to major and hazardous operations they intend to support financially.

HUMANITARIAN SECURITY TRIAD

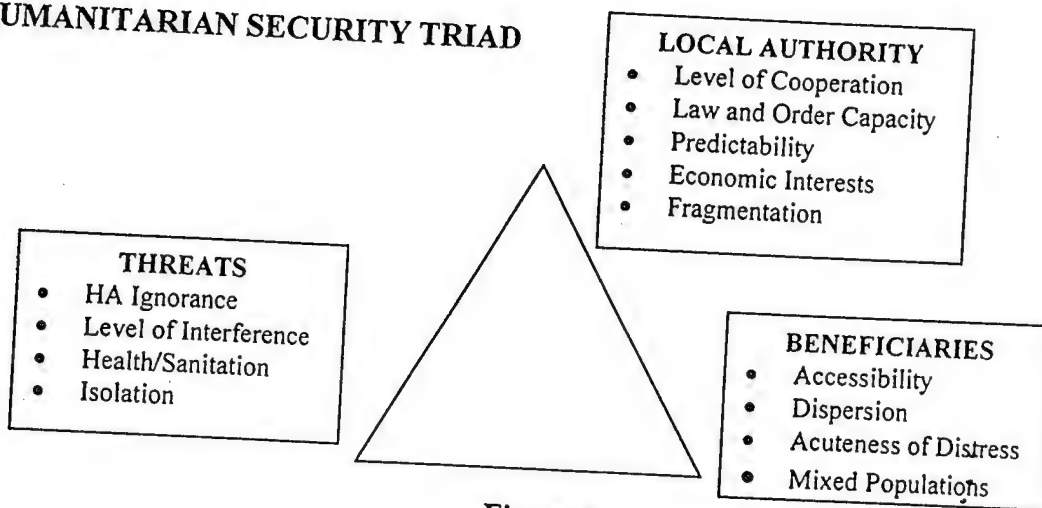


Figure 2

Issue #2 – There is only limited integration and coordination among humanitarian agencies and the military in the planning and implementation of security operations in complex humanitarian crises.

Recommendations:

- Streamline request and coordination process for integrated contingency planning. The current bureaucratic processes required for international

humanitarian organizations to contact and coordinate with national military planners is an obstruction to timely coordination.

- Streamline humanitarian and military coordination within the Unified Commands. Creation of standing Civil Military Operations Centers (CMOC) within the commands with full-time representation of military, political and humanitarian instruments would greatly facilitate proactive contingency planning.
- Expand humanitarian-military participation for education, training, and exercises. Seek to create leaders and staff in both communities who understand each other's mandates and methods. Develop standard operating procedures that are useful to both.
- Expand military liaison at the US missions in Geneva and New York to provide expertise at the international strategic level of planning and coordination.
- Include humanitarian liaison in military contingency planning to insure integration and synchronization of the objectives and means of both communities, and to minimize unintended consequences.
- Maximize the flexibility of military commanders in the field to coordinate with humanitarian agencies. Continue to review, refine and adjust the doctrine and procedures for military Civil Affairs personnel to respond to the fundamental changes in the post-Cold War environment.
- Establish military advisors/liaison with lead humanitarian security agency, perhaps UNSECOORD, to provide assistance with developing the security information network previously described.

Issue #3 – Many additional security issues require attention and discussion. The limited time available during the conference did not permit consideration of all critical issues.

Recommendation: Hold a follow-on conference/seminar to address three additional security issues, namely:

- Securing access to intended beneficiaries of humanitarian assistance
- Building local capacity for security
- Providing security for mixed populations

Sunday, March 15
9:00 AM
Working Group Presentations (con't)

*Legal Working Group Issues and Recommendations**

by
Colonel Phillip Johnson, OSD/GC, Co-Chairman

&
Mr. Ngonlardje-Kabra Mbaidjol, UNHCR, Co-Chairman

Issue #1 - There is a lack of international consensus on the role and limitations of the use of military forces in the resolution of complex humanitarian crises.

Recommendation - Acknowledge that the UN Security Council has primacy and responsibility for authorization of non-consensual use of force in complex humanitarian crises. [The working group suggested the following guiding principles of humanitarian crises: (1) humanity, (2) ideological neutrality, (3) independent effort, and (4) consent of all parties to the maximum extent possible.]

Issue #2 - The diverse mandates and methods of responding to complex emergencies pose coordination challenges for concerted international humanitarian action.

Recommendation - Explore in Chapter VII operations the breadth of legal authority of the Special Representative of the Secretary General (SRSG) over international and non-governmental organizations.

Issue #3 - There is a lack of awareness of refugee, human rights, and humanitarian law among the variety of actors who respond to complex humanitarian crises.

Discussion: Among the issues confronted by actors in complex humanitarian crisis responses are the precise scope of the internationally recognized principle of non-*refoulement* (non-return) of refugees, the broadened refugee definition used, for example, in the 1969 OAU refugee treaty, and the protection of internally displaced persons under human rights and humanitarian law.

Recommendation - Provide legal training for military, government, NGO and international organization actors in refugee, human rights, and humanitarian law.

* The Legal Working Group focused on two major challenges: Protection of refugees/IDPs and Protection of Intervening Forces. The first six issues address the protection of and assistance to refugees and internally displaced persons (IDPs). The final three issues address legal measures for the protection on international forces and humanitarian agencies.

Issue #4 - International actors involved in complex international crises often have different mandates and rules of engagement.

Discussion: International organizations such as UNHCR and ICRC as well as the military engaged in peacekeeping operations have clear and distinct legal mandates. But, NGOs may vary widely and often do not have a legal mandate. Coordination may or may not be feasible. Establishment of mechanisms may only be agreed upon during the implementation phase.

Recommendation - Recognize differences in mandates of military, NGO, government and international organizations and their potential conflicts. Encourage a variety of mechanisms for achieving understanding.

Issue #5 - Failure of a host state to fulfill its obligations under refugee and human rights law may lead to a gap in the protection of refugees, for example, the state's lack of capacity or willingness to adjudicate individual refugee claims or to separate combatants from civilians, or in the case of IDPs, a state's inability to redress the circumstances creating displacement or protect those displaced.

Discussion: International refugee law and human rights law presume the existence of a responsible state with capacity and will to fulfill obligations, a situation which frequently does not exist in complex humanitarian crises. The resulting gap in protection can prolong or prevent resolution of the conflict. International agencies may have to supplement or even replace the state in an interim period but should seek to create national capacity for the longer term.

Recommendation - Address gaps and difficulties in implementation of international refugee and human rights law. Where states are unable or unwilling to meet their responsibilities, develop mechanisms to insure the protection of and assistance to victims of complex humanitarian crises.

Issue #6 – Some NGOs often are engaged in humanitarian activities in the context of complex humanitarian crises without understanding fully their rights and responsibilities.

Discussion: The UN should be given the possibility of exercising some degree of authority over NGOs in the context of a complex humanitarian crisis. A code of conduct for NGOs could be a useful mechanism to achieve clarity and consensus.

Recommendation - Clarify roles, responsibilities, and rights of NGOs in complex humanitarian crises.

Issue #7 - Existing multilateral agreements that provide protection for international forces and humanitarian agencies are not universally in force, and awareness of them is inadequate.

Discussion: While some relevant international agreements enjoy near-universal application, such as the 1949 Geneva Conventions, others do not. The level of awareness concerning these international standards could be greatly improved, especially among civilians.

Recommendation - Promote ratification and awareness of existing agreements such as the 1977 Additional Protocols to the 1949 Geneva Conventions.

Issue #8 - While international law affords limited protection to civilians and military personnel serving under the authority of the UN, it does not provide adequate protection. The Safety Convention is too limited in scope and may actually increase the risk to military personnel who use force in self-defense or mission accomplishment.

Discussion: It is not a crime under existing international law to attack UN personnel per se. We need a convention that will make such an attack an international crime. One positive feature of the Safety Convention is the extension of protection to some UN and associated personnel (such as some NGOs). The Safety Convention establishes too low of a threshold, however, for its inapplicability by incorporating a standard that requires most of our more common operations to be "combatant" in nature. Military forces serving the UN or under UN authority should, as international policemen, be unlawful targets under all circumstances: consensual, coercive, and belligerent.

Recommendation - Promote debate about the Safety Convention that would improve coverage by:

- Including all UN operations (civilian and military)
- Eliminating the armed conflict exclusion.

Issue #9 - War criminals too often escape prosecution that undermines both deterrence and respect for the law of war.

Discussion: Effective prosecution requires enactment of appropriate prohibitions, establishment of effective tribunals, and the political will to apprehend and prosecute alleged offenders. Since NGOs may possess important evidence, their dilemma concerning maintaining impartiality while supporting an effective rule of law should be explored.

Recommendation - Improve enforcement of individual criminal responsibility by:

- promoting appropriate national criminal legislation and international agreements that enable national criminal prosecutions
- recognizing the police function in responses to complex humanitarian crises and exploring proposals to establish an International Police Force
- creating an effective International Criminal Court
- promoting greater commitment to prosecution of war criminals.

Sunday, March 15
10:30 AM
Working Group Presentations

Medical Working Group Issues and Recommendations

by
Brigadier General Patrick Sculley, US Army, Chairman

Issue #1 - There is a lack of a systematized planning process for health support in complex humanitarian emergencies (CHEs).

Discussion: Response to CHEs is all too often ad hoc in nature. At the heart of any effective response is careful and meticulous planning, done in a proactive manner. Such planning creates a culture of prevention that incorporates all capabilities to prevent or ameliorate crises. Early intervention based on early warning and sound planning can save dollars, lives, and enhance sustainability and effectiveness.

Recommendation - Create a systematized planning process that is prevention-oriented and attentive to early warning signals. Insure the following tasks are accomplished in this process:

- Identify the desired End State in the planning process.
- Highlight the Medical Rules of Engagement (e.g. evacuation policy, treatment policy, standards of care, and provider credentials).
- Define the Task Force Commander's authority regarding cooperation and integration with NGOs.

Issue #2 - There is a lack of specialized expertise to incorporate health issues into the planning for the conduct or prevention of complex humanitarian emergencies (CHEs).

Discussion: The creation of a culture of prevention for CHEs requires proactive planning, rather than an ad hoc approach to a crisis situation. The health aspects of CHEs are often a central focus of crisis response. The health response involves cooperation between civil affairs officers, medical officers, NGOs/PVOs, Task Force Commanders, host nation, and many others. It is important that health services support be in consonance with cultural, ethical, political, military, and legal concerns peculiar to the area of interest as well as relevant aspects of international humanitarian law. Furthermore, health service planners must be familiar with NGOs/PVOs working in that area and be prepared to plan for training as appropriate.

Also, health planners must be aware of emerging medical threats rising from disease, social, or environmental conditions. Lastly, health planners must be aware of emerging information technology and bio-nanotechnology that can support health services.

Recommendations:

- Establish health services FAOs to support the planning process.
- Health service FAOs should serve as liaisons with NGOs/PVOs and ensure their inclusion in training exercises that foster improved capabilities and cooperation.

Issue #3 - The role of military medical resources in the treatment of indigenous populations is unclear, and a focal point of tension between the military and NGO/PVO health organizations.

Discussion: Cooperation between NGO/PVO and the military is a sine qua non of successful response to complex humanitarian emergencies. There is general agreement on the use of public health measures, for example, sanitation, food, water, immunizations. However, a flash point of tension is the issue of medical treatment of the indigenous population. In some settings (particularly with high civilian casualties) the NGOs/PVOs may view the treatment of the indigenous population as an appropriate role for the military health care system. In fact, they cite that the Geneva Conventions and IHL sanction this role. In contrast, the military perceives that its first obligation is force protection--sustaining the health and welfare of the command. Military authorities fear that health care resources diverted for the treatment of the indigenous population may be unavailable for treatment of military forces. Additionally, neutrality may be compromised by the treatment of civilians and/or warring factions. Furthermore, organizational structure, personnel mix, logistical support, and military resources are driven primarily by combat treatment needs. Attention to the needs of the indigenous population creates new or different requirements for structure, logistics, resources, and mix of health care providers.

Recommendations:

- Determine national policy and military doctrine to clarify this role.
- Should the decision be made to treat indigenous populations, create structures and processes for triage and early handoff to NGOs/PVOs.

Issue #4 - Readiness considerations, to include increased operations tempo (OPTEMPO) and declining resources, make it difficult for the Military Health System to sustain support for complex humanitarian emergencies. Early handoff is imperative.

Discussion: Although military organizations can respond quickly and bring unique capabilities to CHEs, they are neither configured nor suited to remain involved in such operations. Military operations other than war (OOTW) have the potential to compromise the readiness of the force. Fully 70% of health service support is in the Army Reserve Component (RC). Increasing OPTEMPO has had a negative impact on recruitment and retention for RC health professionals. A constraint on the use of the RC, requiring the use of volunteers, creates manning challenges. Furthermore, there is a basic incompatibility in the structure of health service support configured for war vs. OOTW. Combat health care requires an emphasis on skilled trauma specialists whereas OOTW requires more primary care providers. Resourcing and training health services units for both OOTW and war is difficult and expensive.

Recommendation - Develop the capability, external to the military and outside the Department of Defense, which will be engaged from the inception of planning through the post-crisis process. This organization will facilitate planning and implementation, to include the exit strategy and handoff of the response mission to local governments, NGOs/PVOs, or other agencies as appropriate. Functions of the agency would include assessing, planning, implementing, transitioning, and evaluating. The organization would have its initiatives reviewed by a non-profit advisory board of experts drawn from government, NGOs/PVOs, retired military, and other organizations, domestic and international.

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Sunday, March 15

10:30 AM

Working Group Presentations (con't)

Landmine Working Group Issues and Recommendations

by

Major General (Ret) John Arch MacInnis, Canadian Army, Co-Chairman

Issue #1 - Mine action has not been viewed as an integral part of peace support operations.

Recommendations:

- Apply recent lessons learned from previous peace support operations as discussed on page 19
- When peace support operations occur under active conflict, such as UNPROFOR, insure the force has:
 - ⇒ A clear policy on mine action
 - ⇒ Clear and agreed upon rules of engagement (ROEs)
 - ⇒ Mine action expertise and resources to meet foreseen needs
 - ⇒ Facilities and expertise to gather, collate, assess and share information on mine action with all other involved agencies as part of CIMIC operational capability
- When operations occur under conditions of unresolved conflict, insure the force has:
 - ⇒ A policy and ROEs similar to those referred to above
 - ⇒ A clear policy on the extent and nature of support that can be given to the mine action efforts of others
 - ⇒ An expanded CIMIC capacity, including the ability to coordinate temporarily the entire mine action effort
 - ⇒ Preparations to provide to NGOs and others support and assistance, including information on the security situation, technical information on mines and minefields
 - ⇒ Instructions to provide technical and instructor support, within its resources, to any capacity-building effort underway, at least during initial stages
 - ⇒ Preparations to hand over the civilian mine action activities it has assumed to a mine action center once one is established

- When operations occur under the conditions of a peace agreement, i.e. post-conflict, insure the force has:
 - ⇒ A policy, ROEs and criteria under which support is to be provided as listed above
 - ⇒ A defined policy with respect to mine action activities to be undertaken by the former warring factions
 - ⇒ A clearly defined mine action handover policy

Issue #2 – Humanitarian mine action programs lack coordination.

Recommendation – Achieve effective coordination by:

- Assessing the real needs for mine action on a country-by-country basis, including on-going programs.
- Providing a catalogue of needs (and cost) in the form of opportunities for mine action. (see page 20 for a discussion of criteria to determine if the objectives of a mine action program can be met)
- Taking the action necessary to initiate or expand programs either on a bilateral or multi-lateral basis.
- Conducting a periodic view of the steps taken, and of ongoing programs, making adjustments as necessary.

Issue #3 – A structure is needed to carry out the required coordination of humanitarian mine action at the strategic and tactical levels.

Recommendations:

- Establish a consortium of major donors, such as donor states, the EU, UN and the World Bank.
- Establish a UN-based coordination/clearing house mechanism to support the consortium and provide it with the necessary information to base its decisions.
- Increase the capability of the UN (DPKO) to manage mine action by augmenting it with donor funded support capacity available within the international community, such as the Swiss initiative already in place, the

Marshall Legacy Institute in the US and the Pearson Peacekeeping Center in Canada.

- **Form an international mine action clearing house in which the UN would play a less central role, if the UN is unable to perform effectively the role stated above.**

Issue #4 – A plan of action is needed to resolve the global mine problem once and for all.

Recommendations:

- **Approach the donor community and present the concept outlined above.**
- **Encourage the donor community to support the UN in its efforts to increase its capacity to manage the global mine problem.**
- **Pursue the set-up of the structures described above.**

Sunday, March 15

10:30 AM

Working Group Presentations (con't)

Transition Working Group Issues and Recommendations

by

Major General (Ret) William Nash, Institute of Politics, Chairman

Issue #1 - Transition and post-conflict reconstruction are the least understood and most complex facets of civil-military operations in complex humanitarian crises.

Recommendation – View “transition” is a process of three overlapping, reinforcing and complimentary phases, leading from a condition of extreme *instability* to basic *stability* to *sustainable development* (see illustration on page 22). The three phases include:

- The *international military phase*, as the crisis exceeds the capacity of indigenous institutions and humanitarian organizations, the military provides the bulk of resources committed to establish stability.
- The *international civilian phase*, in which unneeded military capability begins to withdraw, essential indigenous national and community institutions are built, and international civilian organizations provide the bulk of committed resources to resolve the crisis.
- The *indigenous phase*, whereby external intervention recedes as indigenous sovereignty is restored, unneeded international civilian capacity is withdrawn, and indigenous development becomes sustainable.

Issue #2 – Successful transition in humanitarian crises requires careful planning for multiple variables to achieve basic security and, ultimately, sustainable development.

Recommendation – Use the *framework for analysis* in Figure 3 to insure consideration of critical variables during the contingency planning phase in building a successful transition strategy. Remain cognizant of the following throughout the civil-military humanitarian intervention:

- Begin at the beginning
 - ⇒ Plan for transition when planning for intervention
 - ⇒ Begin executing transition plans soon after intervention

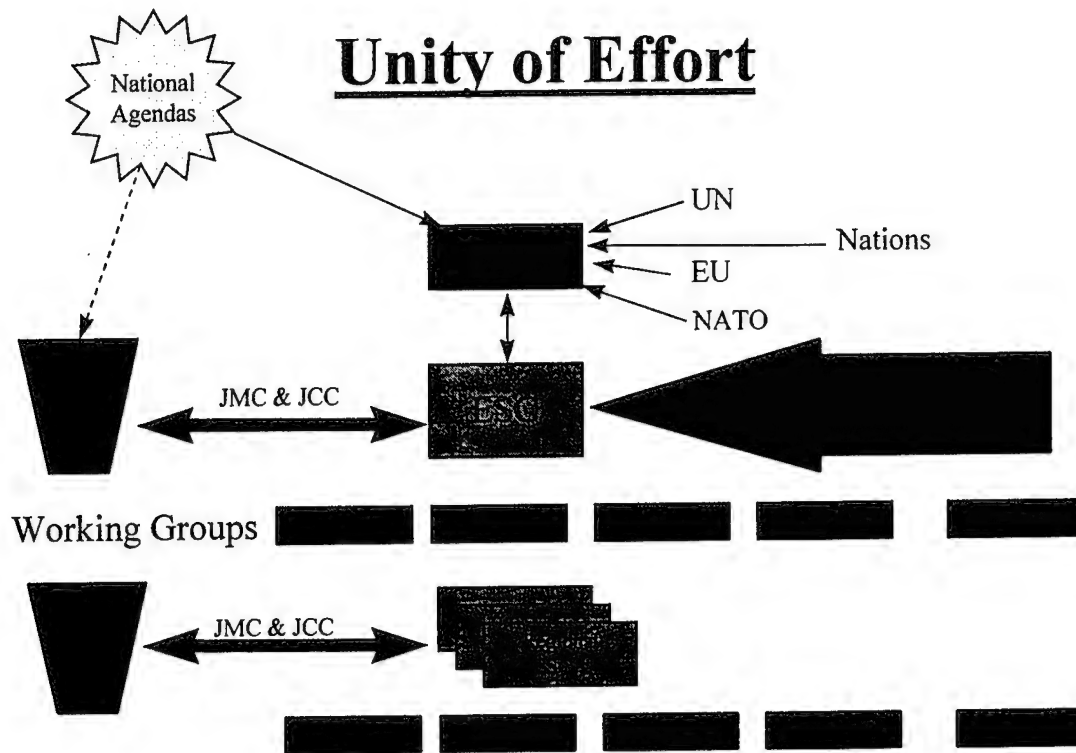
- Remember that transition is a journey, not a destination
 - ⇒ Minimize disruption of indigenous institutions
 - ⇒ Focus resources on indigenous capacity-building
 - ⇒ Focus on transition process of affected country, not intervening countries
- Allow for evolution of strategic purpose and mission
- Note the competing and complimentary agendas of numerous international actors
- Be aware of the multiple levels and factions that compete within the affected state
- Plan mechanisms to resolve conflicts over:
 - ⇒ Intervention versus transition objectives
 - ⇒ International community versus indigenous priorities
- Balance policy imperatives and transition needs
- Synchronize needs and resources of various actors using comparative advantage
- Institutionalize and resource civilian capacity to support local institution-building

Framework for Analysis

Indigenous Institutions and Attributes	Minimum Level of Expectations	International Community Instruments				
		Political	Economic	Social/ Humanitarian	Military	Info
Governance						
Security						
Humanitarian						
Economy						
Social/Cultural						
Infrastructure						

Figure 3

Issue #4 – Unity of effort must be pursued throughout the planning, execution and transition processes. The following chart illustrates some important considerations:



Recommendations:

- Provide political unity of effort through a Policy Implementation Group located outside of theater.
- Execute policy through an Executive Steering Group (ESG) in theater with input from all participating parties.
- Replicate the ESG coordinating structure at the regional level.
- Monitor progress of humanitarian intervention through working groups established by ESGs.
- Assess alternative methods for achieving unit of effort.

Sunday, March 15

11:30 AM

Concluding Remarks and Next Steps

COL (Ret.) Daniel H. Layton, Executive Director, MLI

Colonel Layton thanked all conferees for their tremendous attitude and outstanding work throughout the conference. He commended them for their insightful contributions and excellent recommendations. He challenged them to implement the recommendations in the field.

He remarked that *Forging Peace* would be viewed as the birthplace of several key initiatives that will truly improve civil-military coordination and enhance crisis response. He then discussed the next steps to be taken to insure dissemination of conference results and, most importantly, implementation of recommendations.

He commented that all conferees would be provided a copy of conference proceedings, including the excellent discussion papers prepared in advance for the working groups. He also indicated the proceedings would also be forwarded to Heads of many of the agencies that were represented at the conference and are so vital in humanitarian crisis response.

Colonel Layton concluded by extending his personal thanks to many of the people who worked behind the scenes to make the *Forging Peace* conference such a success, including Bill Burritt, Katie Fratianni, Jane Latcham, Ron Mendez, Jean Woodward, the National Security Program Fellows, and many, many others.

LTG (Ret.) James Terry Scott, Director, National Security Program

General Scott echoed many of Dan Layton's comments and personally thanked the conferees for their hard work. He urged them to implement their recommendations and outlined future programs at Harvard that will be addressing related subjects.

GEN (Ret.) Gordon R. Sullivan, Chairman of the Board, MLI

General Sullivan also thanked everyone in attendance for his or her outstanding work and expressed great enthusiasm over the conference results. He commented that *Forging Peace* was a very productive stop on a long journey, and challenged all conference participants to continue to seek ways of improving coordination and communication.

He provided a moving conclusion that captured the spirit of caring for one another that epitomized the type of people dedicated to humanitarian work. In an anecdote from the US Civil War, he recounted the story of comrades who kept faith in one another, even until death. He praised those in the room as being cut from the same cloth, selfless and dedicated to the plight of their fellow man.

Appendix A: Conference Agenda



Forging Peace



JFK SCHOOL OF GOVERNMENT

AGENDA

Conference on Civil-Military Relations in Complex Humanitarian Crises

Friday, March 13

- 11:00 - 12:45 **Registration at Harvard Faculty Club (Registration Fee \$40)**
- 1:00 - 1:15 **Welcoming Remarks at the Harvard Faculty Club**
Dr. Joseph Nye, Dean, JFK School of Government
- 1:15 - 1:20 **Announcements and Conference Overview**
Perry Baltimore, Conference Director
- 1:20 - 3:00 **Plenary Session w/GEN (Ret.) Gordon R. Sullivan, Chairman, MLI**
Mr. Len Hawley, Director of Peacekeeping, National Security Council
Ms. Marguerite Rivera Houze, Deputy Assistant Secretary of State, PRM
Mr. Kofi Asomani, Director, UNHCR Liaison Office at UN HQs
- 3:00 - 3:15 **Break**
- 3:15 - 4:30 **Core Group Panel Discussion w/COL (Ret.) Dan Layton, Exec Dir, MLI as moderator**
LTG (Ret.) Terry James Scott, Director, National Security Program
Amb H. Allen Holmes, Assistant Secretary of Defense for Special Operations
Amb Marshall F. McCallie, Special Coordinator, African Crisis Response Initiative
Dr. Priscilla Clapp, State Deputy, Global Humanitarian Demining Office
+ Plenary Session Speakers
- 4:30 - 5:45 **Working Group Discussions under direction of Working Group Chairpersons**
#1 - *Planning* - Prof. Arthur Dewey, USAWC and Mr. Michael Elmquist, UNOCHA
#2 - *Operations* - Mr. William Garvelink, OFDA and COL (Ret.) Karl Farris
#3 - *Security* - MG Kenneth Bowra, USASWCS and Mr. Filippo Grande, UNHCR
#4 - *Legal* - COL Phil Johnson, OSD/GC and Mr. Ngonlardje Mbaidjol, UNHCR
#5 - *Medical* - BG Patrick Sculley, CHPPM
#6 - *Landmines* - MG (Ret.) John MacInnis, Canadian Army
#7 - *Transition & Post-Conflict Reconstruction* - MG William Nash, Institute of Politics
- 6:00 - 7:00 **Cocktail Reception at the Harvard Faculty Club**



Forging Peace



JFK SCHOOL OF GOVERNMENT

AGENDA

Conference on Civil-Military Relations in Complex Crises

Saturday, March 14

- 8:00 – 8:30 Continental Breakfast at the Taubman Conference Center, 5th Floor, JFK School of Government
- 8:30 – 10:00 Working Group Discussions under direction of Working Group Chairpersons
- #1 – *Planning* - Belfer, Room 322
 - #2 – *Operations* – Belfer, Room 324
 - #3 – *Security*- Littauer, Room 324
 - #4 – *Legal* – Littauer, Room 330
 - #5 – *Medical* – Littauer, Room 332
 - #6 – *Landmines* – Littauer, Room 380
 - #7 – *Transition* – Littauer, Room 382
- 10:00 – 10:15 Break
- 10:15 – 11:45 Working Group Discussions :
- 11:45 – 1:15 Working Lunch at the Taubman Conference Center, 5th Floor, JFK SOG
- Mr. Andrew Natsios, Executive Director, World Vision
Ms. Nan Borton, former Director, Office of Foreign Disaster Assistance
- 1:15 – 3:00 Working Group Discussions
- 3:00 – 3:15 Break
- 3:15 – 4:30 Working Group Discussions
- 4:30 - 6:00 Working Groups Prepare Summaries and Reports



Forging Peace



JFK SCHOOL OF GOVERNMENT

AGENDA

Conference on Civil-Military Relations in Complex Crises

Sunday, March 15

- 8:30 – 9:00 Continental Breakfast at the Taubman Conference Center, 5th Floor, JFK School of Government
- 9:00 – 10:15 Working Group Presentations (WG #1-4)
- Planning:* Professor Arthur Dewey, USAWC and Mr. Michael Elmquist, UNOCHA
Operations: Mr. William Garvelink, OFDA and COL (Ret.) Karl Farris
Security: MG Kenneth Bowra, USASWCS and Mr. Filippo Grande, UNHCR
Legal: COL Phil Johnson, OSD/GC and Mr. Ngonlardje Mbaidjol, UNHCR
- 10:15 – 10:30 Break
- 10:30 – 11:30 Working Group Presentations (WG #5-7)
- Medical:* BG Patrick Sculley, CHPPM
Landmines: MG (Ret.) John MacInnis
Transition: MG William Nash, Institute of Politics
- 11:30 – 12:00 Concluding Remarks and Next Steps
COL (Ret.) Daniel Layton, Executive Director, MLI
GEN (Ret.) Gordon R. Sullivan, Chairman of the Board of Directors, MLI
- 12:00 Adjourn

Appendix B: Acronyms

Forging Peace

Acronyms

ACRI	African Crisis Response Initiative
BRAVA	Blast Resuscitation and Victim Assistance
CCRC	Combat Casualty Research Center
CG	Contact Group
CHE	Complex Humanitarian Emergency
CHPPM	Center for Health Promotion and Preventive Medicine
CIMIC	Civil Military Information Center
CINC	Commander-in-Chief
CMOC	Civil-Military Operations Center
DART	Disaster Assistance Response Team
DOD	Department of Defense
ECHO	European Community Humanitarian Organization
ESG	Executive Steering Group
EU	European Union
GHDO	Global Humanitarian Demining Office
HA	Humanitarian Assistance
HUMAD	Humanitarian Advisor
HUMINT	Human Intelligence
ICRC	International Committee of the Red Cross
IDP	Internally Displaced Person
IFOR	Intervention Force
IHL	International Humanitarian Law
IOM	International Office for Migration
IPTZ	International Police Task Force
IRIN	Inter-Regional Information Network
JCS	Joint Chiefs of Staff
JFKSOG	John F. Kennedy School of Government
JTF	Joint Task Force
KDP	Kurdish Democratic Party
MLI	The Marshall Legacy Institute
MPRI	Military Personnel Resources Inc.
NATO	North Atlantic Treaty Organization
NGO	Non-Government Organization
NSC	National Security Council
OFDA	Office of Foreign Disaster Assistance

OOTW	Operations Other than War
OPTEMPO	Operations Tempo
OSCE	Office for Security and Cooperation in Europe
OSD/GC	Office of the Secretary of Defense/General Counsel
PDD	Presidential Decision Directive
PHR	Physicians for Human Rights
PIC	Peace Implementatin Council
PM	Politico-Military
PRM	Population, Refugees and Migration
PHR	Private Volunteer Organization
RIC	Repatriation Information Center
ROE	Rules of Engagement
SAIC	Science Applications International Corporation
SFOR	Stabilization Force
SOF	Special Operations Forces
SOLIC	Special Operation and Low Intensity Conflict
SRSR	Sprecial Representative of the Secretary General
UN	United Nations
UNDPKO	United Nations Department of Peacekeeping Operations
UNHCR	United Nations High Commissioner for Refugees
UNHCHR	United Nations High Commissioner for Human Rights
UNICEF	United Nations Children's Fund
UNOCHA	United Nations Office for Coordination of Humanitarian Affairs
UNPROFOR	United Nations Protection Force
UNSECOORD	United Nations Security Coordinator
USACOM	United States Atlntantic Command
USAID	United States Agency for International Development
USAPKI	United States Army Peacekeeping Institute
USASWCS	United States Army Special Warfare Center and School
USAWC	United States Army War College
USCENTCOM	United States Central Command
USPACOM	United States Pacific Command
USSOUTHCOM	United States Southern Command
USSOCOM	United States Special Operations Command
USUN	United States Mission to the United Nations
WFP	World Food Program
ZOS	Zone of Separation

Appendix C: Final List of Attendees

Forging Peace Participants

WG	Name	Title	Organization Name	Address	Phone	E-Mail
3	Mr. Gregory Alex	Humanitarian Policy Advisor	UN Office for Coordination of Humanitarian Affairs	BP 445 Kigali RW	Work (412) 374-1167 Fax	gregory.alex@undp.org
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6	MG Joseph Garrett	Military Deputy to DUSA (IA)	Department of the Army	Room 3E522, The Pentagon Washington DC 20310-	W'ork (202) 647-0792 Fax (202) 647-2465	

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3	Mr. Sean Greenaway		ECHO, European Commission	B-232 4/55 Rue de la Loi #200 Brussels 1049 BE	York (322) 296-1668 Fax	s.greenaway@echo.cec.be
3	Dr. Andrew Harris	Senior Operations Analyst	ANSER	1215 Jefferson Davis Highway Suite 800 Arlington VA 22202-	York (703) 416-3051 Fax (703) 416-3225	harris@asnser.org
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4	Mr. Arthur Helton	Director, Forced Migration Projects	Open Society Institute	400 West 49th Street 4th Floor New York NY 10019-	York (212) 548-0634 Fax (212) 548-4676	ahelton@sorosny.org
7	COL Michael Hess	Deputy Commander	353rd Civil Affairs	135 Eastern Parkway Brooklyn NY 11238-	York (212) 559-1394 Fax (212) 793-2933	michael.hess@cilicorp.com
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Appendix D:

The Marshall Legacy Institute Fact Sheet

The Marshall Legacy Institute



A Vision for the 21st Century

History

The Marshall Legacy Institute (MLI), a District of Columbia nonprofit 501(c)(3) organization, incorporated on March 18, 1997. The founders established it to extend the insight and vision that Secretary of State George C. Marshall applied in developing the European Recovery Program (the "Marshall Plan"). MLI's purpose is to identify problem situations in the developing world that nurture instability, inhibit economic development, or pose a threat to public health and safety, and to develop programs that address those problems. In accomplishing this objective, MLI works in conjunction with both U.S. and foreign governments, and such existing organizations as the United Nations, the International Committee of the Red Cross, and the World Bank. In keeping with Marshall's vision, MLI works to place mechanisms and systems that will ultimately be turned over to agencies, indigenous groups and foreign governments that are served by its programs.

MLI is currently focusing on the elimination of the destabilizing effects of the global landmine problem. MLI conducted conferences on the landmine problem with George Washington University, Harvard University and the Pan American Health Organization. It began work on a landmine injury database and related training aids. It also established several private-public partnerships to pursue goals in international health projects and other landmine related projects.

Gen. (Ret) Gordon R. Sullivan, William G Foster, Daniel H. Layton and Joseph G. Pallone formed the Marshall Legacy Institute in early 1997. The Mobil Foundation, Hogan and Hartson Law Firm, Coleman Research Corporation and several other interested associates gave assistance. The Marshall Foundation agreed to an affiliate relationship and would be the ultimate recipient of the assets when The Marshall Legacy Institute's work is completed. The initial board members were Gen. (Ret) Gordon R. Sullivan (Chairman), William G. Foster (President), and Daniel H. Layton (Vice-President). After incorporation, the following board members were added: The Honorable Nancy Kassebaum Baker, The Honorable Mack F. Mattingly, and The Honorable Robert L. Gallucci. The directing staff is Daniel H. Layton, Executive Director, and Joseph G. Pallone, Deputy Executive Director and Secretary-Treasurer.

The IRS granted 501©(3) tax-exempt status on September 30, 1997 as a public supported organization. The advanced ruling period is scheduled to end December 31, 2001.

Nature of The Marshall Legacy Institute 's Work

The vision of George C. Marshall that MLI will carry forward into the 21st Century includes the following core goals:

- Provide relief to those who suffer
- Encourage the conditions that foster health, stability and security
- Counteract the conditions and forces that nurture instability and foster violence
- Accept challenges and responsibilities of U. S. leadership

Mission

The Marshall Legacy Institute will locate, secure, and apply skills and resources to selected problem situations in the developing world to alleviate suffering, restore hope, and create the conditions that nurture stability.

Concept

Analyze the specific problems and needs of troubled regions and emerging democracies.
Create primarily action-oriented projects
Apply technologies and information capabilities to areas of the world
Facilitate scientific, educational and charitable activities of other organizations
Leverage public and private resources

Focus (1997-1998)

A major focus of The Marshall Legacy Institute is the development of technologies and information products that mitigate the effects of the global landmine problem.

Land mine Injury Database:

Responding to the lack of available information, research assets and training sources for landmine injury, The Marshall Legacy Institute developed a project for creation of the world's first comprehensive database of landmine injury. This database will contain all the U.S. records from the Vietnam era combined with Russian and Ukrainian records from Afghanistan and ICRC records from other contaminated regions. This will serve as research tool for civilian and military medical institutions and will be a prime source for training products to improve the skills of first care providers, surgeons, hospitals, demining organizations, and non-government organizations.

Landmine Injury Training Products:

The Marshall Legacy Institute is working on the development of training products for landmine injury that will significantly improve the medical readiness of U.S. military casualty care personnel and supporting institutions. These products will also be made available to international organizations, NGOs and other governments. This is a five-month initial effort beginning in the 4th quarter of 1997, continuing into mid 1998, and is funded by The Office of the Secretary of Defense.

Civil-Military Relations in Complex Crises:

The Marshall Legacy Institute co-sponsored a conference with Harvard University on March 13-15, 1998. This conference brought together high level participants from the U.S. Government, military and policy agencies, as well as key leaders from international and non-government organizations. The goal was to identify critical solutions and process to improve civil-military effectiveness in complex crises. MLI was responsible for all organizational, planning, logistics and execution requirements for the conference. The US Army, Defense Department, and State Department fund this.

Landmine Technology Initiatives:

The Marshall Legacy Institute is participating in a consortium of international technology partners seeking to develop better technologies for the remediation of the landmine problem. MLI conducts research into the best available "tools" to improve demining operations across the spectrum of needs from mine awareness, to detection/elimination, to injury, to long term care. MLI also conducted a joint conference with George Washington University, bringing this problem to high level international attention.

Operation Smile:

The Marshall Legacy Institute is partnered with Operation Smile and RemēCare to conduct Telemedicine and surgeries in Bosnia. This program will establish a long-term relationship between a U.S. based hospital and the Kosevo Hospital in Sarajevo.

K-9 Demining Corps:

The Marshall Legacy Institute is partnered with DC Comics, The Humane Society of the United States and others to create a campaign that will raise awareness about the critical need for people and dog teams to remove landmines in contaminated countries. The goal is to raise funds that will significantly increase the availability of demining dogs to these countries.

Appendix E

Forging Peace Discussion Papers

1. Alex, Gregory. *"Joint Peacekeeping Operations and Humanitarian Assistance: A Discussion of the United Nations Assistance Mission to Rwanda, Its Achievements and Shortcomings"*
2. Clarke, Walter and Dewey, Arthur (Gene). *"U.S. Military Planning For Complex Humanitarian Emergencies - The Troubled Planning Environment"*
3. Dziedzic, Michael J. *"Forging Peace: Policing the New World Order"*
4. Farris, Karl and Schroeder, Daniel. *"Harmonizing the Military with Other Agencies and Local Populations in Complex Emergencies"*
5. Gersony, Robert and Hess, Michael E. *"Clearing the Bureaucratic Minefields: The CIMIC/USAID-DART Relationship in Bosnia"*
6. Greenaway, Sean and Harris, Andrew J. *"Humanitarian Security: Challenges and Responses"*
7. Helton, Arthur C. *"Legal Dimensions of Responses to Complex Humanitarian Emergencies"*
8. Layton, Daniel H. *"Landmines: Peacekeeping and Technology"*
9. Leitch, Robert. *"Healthcare Challenges For the Military in Complex Humanitarian Crises"*
10. MacInnis, John A. *"Mine Action: Towards a Framework for Co-ordination"*
11. MacInnis, John A. *"Peace Support Operations and Mine Action"*
12. Mbaidjol, Ngonlardje-Kabra. *"Legal Principles Governing Refugee Issues and New Challenges"*
13. Naab, Richard. *"Operations in Complex Humanitarian Crises (Provide Comfort)"*
14. Parlow, Anita. *"Formalizing Relations between DoD and OFDA in Complex Humanitarian Crises, An Interview with Tom Dolan"*
15. Sculley, Patrick D. *"Military Health System 2020 (Fact Sheet)"*
16. Sharp, Walter Gary, Sr. *"Forging Peace: Protecting Those Who Serve"*

JOINT PEACEKEEPING OPERATIONS AND HUMANITARIAN ASSISTANCE:

A Discussion of the United Nations Assistance Mission in Rwanda, Its Achievements and Shortcomings

By Gregory Alex

Discussion Paper
for

Conference On
Civil-Military Relations in Complex Humanitarian Crises
"Forging Peace"

March 13-15, 1998
Harvard University
Cambridge, Massachusetts

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The actions of the United Nations Assistance Mission to Rwanda (UNAMIR), established in 1993 under United Nations Chapter 6 to provide peacekeeping and humanitarian assistance support to the peace process in Rwanda, have come under intense scrutiny since the period of the Rwandan conflict in 1994 resulting in mainly critical reviews of the mission's inability to stop the genocide and to protect members of its own forces. That criticism, however, has come from the same world that stood by in ambivalence and inaction watching the horrors of the genocide unfold while a small and inadequate UN force in Rwanda did what little it could to limit the impact of the genocide.

In the final analysis, the importance of UNAMIR lies not in the acknowledgment of contributions made or with the ability of the collective world conscience to come to grips with its responsibility for that tormenting period in recent history, but with the capacity and political will of the world and its representative body to prevent any such occurrence in the future. An examination of all phases of the Rwandan genocide ---from its preparation through the course of its enactment, the operations of Zone Tourquoise and the assistance programs in its wake both in Rwanda and abroad --- may bring an awareness of the problems and thus empower the world to act differently in the future.

Before the Genocide

Early in 1994, indications were received by UNAMIR headquarters in Kigali from a number of informants that serious preparations were underway to eliminate the ethnic minority and supporters of a power-sharing movement within the government of the time. That information was made known to the United Nations in New York as well as to a number of influential diplomatic missions in Rwanda. A request was also forwarded to DPKO headquarters to neutralize weapon storage sites that had been identified in the northwest of the country. For whatever reasons, no authority was given to UNAMIR to intervene and those unheeded warnings became the bloody reality that haunts the world to this very day.

Has the system that failed to arrest the genocide in 1994 since been stripped of political, administrative or bureaucratic propensities that allowed 800,000 people to be murdered in the course of a few months? Has the consciousness of the world changed so dramatically since the genocide of 1994 that if the same situation were to arise today, the world and the United Nations would act differently than they did in 1994?

The fact that information was passed to relevant hierarchical authorities is clear. What happened afterwards is not. Was the information disregarded as illusory, was it victim of a timely process of bureaucratic review or did some diabolical hand slip it under the carpet and away from the eyes of those who might have acted upon it? These are the questions that need to be addressed; the answers to them should guide the world in establishing the legal framework in which future interventions should be conducted.

The First Days

That the genocide was organized well in advance of its enactment is no longer at issue. On 6 April 1994 the President of Rwanda's plane was shot down on its landing approach at Kananombe airport. Within 30 minutes of the downing of the aircraft, government-controlled Radio Mille Collines began its inciting broadcasts laying responsibility for the assassination of the President on the inkotanyi (soldiers of the Rwandan Patriotic Army) assisted by Belgian troops. The Presidential Guard established roadblocks

throughout the city and the punctual and systematic elimination of influential Tutsis and moderate Hutus, including the assassination of three opposition leaders, began.

In the early days of the conflict, the Force Commander of UNAMIR attempted to meet with the warring parties in hopes of minimizing the impact of the escalating violence. As events of the ensuing months were witness, those efforts failed and in the course of the next three months, as many as 800,000 people were slaughtered in monstrous fashion.

Of immediate impact on the future of the UNAMIR intervention was the capture, torture and execution of ten UNAMIR soldiers of the Belgian Battalion assigned to protect the Prime Minister who also was seeking to contain the spread of the carnage. Ostensibly in reaction to the loss of their countrymen, the Belgian Parliament elected to withdraw their support to UNAMIR, possibly knowing full well the implications of their actions. The withdrawal was preceded by a request of the Belgian Government and the interim government of Rwanda to expand the mandate of UNAMIR. The United Nations Security Council, however, facing the three options of expanding the UNAMIR mandate from Chapter 6 to Chapter 7, maintaining a limited presence or withdrawing completely, chose to reduce the capacity of UNAMIR leaving the mission with a depleted and vulnerable capacity. That decision has raised significant questions about the legalities of unilateral withdrawals of contributing nations' peacekeeping forces and that of the United Nations body to sanction a withdrawal that consequently places the objectives of the overall mission in jeopardy.

Locations, profiles and needs of civilian populations within Kigali

During the genocide, the principal targets of the militia associated with the former government were civilians, large numbers of whom sought refuge in various locations throughout the city. The concentrations with the highest numbers of people were Amahoro Stadium (7,000), King Faisal Hospital (4,000), Sainte Famille Church (2,000) and its adjacent school (4,000) and the Mille Collines and Meridien Hotels (200 each). There were also smaller numbers of people and groupings of unaccompanied children who took refuge in other locations as well as the individual families that hid in rafters, in ditches and under floorboards and others who awaited their fate inside the walls of their own homes.

Many of those seeking refuge during the war did so behind the lines of their genocide-defined enemy. Amahoro Stadium was situated behind RPA lines and was inhabited mainly by those of Hutu ethnicity. People who took refuge inside Sainte Famille Church were mainly of Tutsi ethnicity. In neither location were the potential victims completely safe and in fact, in the Sainte Famille Church, there was strong evidence of collusion between the priest of the church and the interhamwe, Presidential Guard and those of the gendarmerie whose primary pursuits were ethnically motivated as opposed to being of military objective.

The needs of the people were very basic: first and foremost was security, followed by water, food, shelter and medicines, none of which was regularly delivered or readily available in the city.

UNAMIR After the Withdrawal of Significant Forces

Prior to the commencement of the genocide, UNAMIR had a force of 5,000 soldiers from 26 countries. Most prominent among them was the Belgian Battalion fully-equipped with armored vehicles and conventional arms. During the first days of the genocide, the likelihood of the conflict escalating

became increasingly clearer and a consensus quickly rose among foreign missions, the United Nations and non-governmental organizations to evacuate their expatriate personnel. The Belgian community had the largest representation of foreign nationals and soon after the murder of the ten Belgian soldiers, the attentions of Belgian Battalion were directed towards the evacuation of their nationals.

After the departure of the Belgian forces, UNAMIR was left with approximately 300 men, 200 of whom were officers, and a handful of civilian humanitarian workers, all of whom were stationed in Kigali with activities outside of the city being limited to reconnaissance missions of UNAMIR troops and occasional missions to deliver humanitarian assistance. While the mission was in possession of a significant fleet of light vehicles and trucks, the withdrawal of support equipment by the Belgians with their troops left UNAMIR virtually toothless with three functional armored personnel carriers (APCs) and a few small arms and automatic weapons. With this limited force, UNAMIR established protection units for a number of concentration points for displaced people, for UNAMIR headquarters, for movements of the Force Commander and visiting dignitaries and on rare occasions for the collection and delivery of humanitarian assistance.

The unconventional distribution of officers to enlisted men offered certain advantages to the peacekeeping operations; in a strict military sense, however, it also had recognizable disadvantages. An effective military needs those who follow orders as well as give them. The Force Commander was clearly in command and nationalistic groups within the overall force (represented by 26 countries) established their independent pecking orders. Just the same, there were tasks more suited to the enlisted man than to the career military officer, and in some instances, some of the officers were disinclined to serve as manpower for labor intensive activities.

One particular example of the mission's personnel and material limitations was the defense of UNAMIR headquarters, located behind RPA lines, which was subjected to periodic and often sustained artillery attacks from FAR positions in the center of Kigali. As a matter of self-protection, the sandbagging of the three-story headquarters building was initiated. With only two shovels available for the operation, officers and civilian humanitarian workers alike were tasked with the responsibility of filling, carrying and stacking the sandbags as required. Momentum for the activity waned as grumbings from officers and civilians doing the work of privates translated into ever-diminishing numbers of active participants and the one-day assignment took weeks to complete.

The determination of the composition of a peacekeeping force, whether it be choosing the member nations that will comprise its membership, the assignment of responsibilities within the overall force or the distribution of officers to enlisted men, which as in any army requires close examination and attention to detail. Attention should also be paid to cultural differences and the relevant experiences of the participating soldiers and their psychological adaptability to a world and people that may be entirely foreign to them.

The mix of military and civilian aid workers

Civilian humanitarian workers from various United Nations agencies (United Nations Humanitarian Assistance Team --- UNHAT) joined the UNAMIR Humanitarian Cell and provided the mission with strengthened delivery capacity and humanitarian program insights. While on the whole the two distinct groups with different temperaments complemented one another, distinct differences in approach to discipline were exhibited. While the generalized statement that civilians tend to look at orders

and often question them, military professionals are trained not to violate the chain of command. In a war, it is likely that the ability to follow orders, particularly those coming from officers experienced in combat, will enhance the chances of survival.

While the military members of the UNAMIR Humanitarian Cell were conditioned to follow the instructions of their superiors in the command structure, their civilian counterparts had only one standing order: "Go by gut feeling. If today looks like your unlucky day, stay put." (Hardly the standard instruction of a successful army.) Just the same, the civilian strategy seemed to work under conditions where the level and frequency of attacks to which the civilian teams fell victim were quite high.

While the military apparatus of UNAMIR enjoyed the advantage of inherent discipline, it lacked experience in humanitarian operations, something to which the civilian team could justly lay claim. Whereas the military minds were proficient at working out the mechanical details of delivering humanitarian assistance, the civilian team knew the pitfalls they were likely to face upon arrival at any of the displaced person camps. The civilian team was also familiar with the locations of warehouses and obscure distribution points in the city and generally willing to fulfill their duties even under risk of attack and the military observers (particularly African members) were adept at negotiating access to those areas that were generally in front line zones of the war.

The UNHAT members initially enjoyed privileges that the military did not: The civilian team was able to frequently rotate staff between Kigali and Nairobi while the military had no such facility. (The Force Commander sensing this discrepancy and the discord it created between the military and civilian teams quickly put an end to the civilian practice.)

In the end, the two teams, though not fully homogenous, worked well together. Both sides won mutual respect that came begrudgingly at first: the civilians through their demonstrated willingness to work under dangerous conditions and the military for their ability to adapt mechanical operational tendencies to the realities of humanitarian needs.

The Inconsequence of International Humanitarian Law: An Argument for International Action to Support Principles of Medical Neutrality

With an estimated 800,000 civilians having been killed during the four months of the genocide, no place in Rwanda was safe and no international convention or traditional rule of engagement was ever observed. The International Committee of the Red Cross is the most glaring example.

During the first two months of the war, the ICRC lost 57 of its national staff, most of them dragged from ambulances carrying wounded civilians to hospital and systematically hacked to death. The situation became so costly in human lives that the ICRC was obliged to suspend its collection activities. Meanwhile, the FAR had placed its artillery 50 meters behind the ICRC hospital and despite repeated requests from the Delegate to remove them from the proximity of the Red Cross compound, the FAR refused. Consequently, the RPA continually shelled the FAR emplacements and often fell short of their target hitting the casualty ward and inner confines of the hospital and ICRC compound, several times killing or wounding medical staff as well as patients.

UNHAT members and their military observer escorts as well as those in the military command who were assigned the tasks of monitoring the situation on the ground also came under fire or were

subjected to the constant threat of it. The civilian team in particular was victimized by both sides engaged in the conflict. The RPA saw food and supplies stored in their zones of control being loaded from warehouses and transported across enemy lines or to those persons who had taken refuge in the concentration points behind RPA lines, many of them presumably the enemy. The interahamwe and FAR the delivery of food being made to groups of people, most of whom were Tutsis. Both armies made their discontent known through constant harassment and frequent armed aggression. The UN flag served as much as the object of the cross hairs for a combatant's rifle as it did the declaration of a neutral party. United Nations travel documents were virtually useless: UNHAT members had to prove their nationality to be other than Belgian. (The initial broadcasts of the Mille Collines Radio were echoed throughout the genocide and Belgian nationals — with the exception of a Belgian arms dealer present in Kigali during the genocide — if encountered by the interahamwe, Presidential Guard or other elements of the former government were likely to have been killed.)

External Logistics Support to UNAMIR was Ineffective

During the genocide, the Canadian Air Force was flying missions into Kigali when possible. The periodicity was determined by the security of the airport that varied because of shelling by FAR and occasional small arms fire from unidentified troops on the ground in the environs of the airport.

Loading of the aircraft was handled by UNAMIR logistics officers based in Nairobi and ostensibly in response to requests for specific materials and equipment from UNAMIR Kigali (including supplies for the civilian humanitarian team). Although the requests from UNAMIR Kigali were fairly explicit regarding the needs for operations in Rwanda, the logistics support unit in Nairobi was consistently unable to fill those orders. For a period of two weeks in the middle of the genocide, when aircraft were able to land at Kigali, virtually the only re-supply was of bottled water. Repeated requests for military rations, empty bags, barbed wire and emergency humanitarian supplies (medicines, plastic sheeting, high-energy biscuits and other foodstuffs) from the Force Commander, followed by urgent appeals to DPKO headquarters and to the Nairobi support office, were rarely filled and sent to Kigali.

The reasons for the inability of the logistics support office in Nairobi to respond to the immediate needs of UNAMIR in Kigali were never made clear. Humanitarian supplies and UNAMIR support items were stored at Jomo Kenyatta International Airport but rarely found their way onto the cargo flights. Whether Kenyans authorities were blocking the loading of the supplies because of affinity to the former Rwandan government or whether the UNAMIR logistics staff lacked the competence or sense of urgency to fill the orders has never been explained. The fact that problems naggingly persisted throughout the course of the genocide at the expense of morale in Kigali, is an indication of serious structural problems within the system and a reflection of a dangerous lack of accountability that must be addressed if future interventions are to realise even a modicum of success.

UNAMIR was operating a fairly large fleet of vehicles during the war and because of the preponderance of shrapnel lying on roads throughout the city, tire punctures were a frequent occurrence. However, during the war, UNAMIR had no capacity to repair those tires and instead shipped pallets loaded with punctured tires by air to Nairobi for repair. Once those tires were repaired, they would be flown back to Kigali, taking valuable cargo space that might have been better utilized for urgent materials and supplies.

Peacekeeping operations require a significant and efficient capacity for supply. That capacity, as evidenced by the inability of the Nairobi base of Operations to supply UNAMIR with the required materials, did not exist within the UNAMIR structure. It did not lack the physical capacity to move items (the Canadian Air Force assumed the risks and responsibility for flying into Kigali) but the system had unfortunately engaged individuals who were either unable to overcome blockages created by host Kenyan authorities on the transshipment of relief items or who lacked the motivation to respond to the requests from UNAMIR in Kigali. The question arises then on whom the responsibility for logistic support to field operations in combat areas should fall. Is it the military forces assigned to the actual movement of the supplies, the peacekeeping operations logistic arm, the humanitarian body responsible for the delivery of assistance on the ground or a combination of the three?

UNAMIR's Ability to Protect

With its depleted capacity, UNAMIR was able to assign armored personnel carriers for guarding the Amahoro Stadium, King Faisal Hospital and Mille Collines Hotel on a rotational basis. Due to the lack of equipment, other locations were only guarded (if at all) by lightly armed or unarmed military observers. For the most part, the protection was surprisingly effective and prevented those several thousand inside the locations from being harmed. The effects of this effort on the part of UNAMIR is under-rated, as in most instances, the people whom the soldiers were assigned to guard were situated well behind their perceived enemy lines.

With the war continuing unabated, the need for added protection of locations in the city became acute. The ICRC hospital was subjected to constant harassment from interahamwe and Presidential Guards who were seeking to remove wounded Tutsis from within the hospital. At the request of the ICRC delegate, the Force Commander assigned an Austrian major to guard the ICRC premises. Unarmed, he sat for three days and nights outside the hospital (no replacement could be sent as UNAMIR headquarters was subjected to sustained artillery fire from FAR positions for three days) and turned away countless groups of enraged militia. Under similar circumstances, a single unarmed African military observer was assigned to guard the Sainte Famille Church. He enjoyed similar success.

During the exchanges of persons from Sainte Famille Church situated behind former government lines and those located in King Faisal Hospital and Amahoro Stadium, UNAMIR provided lightly armed escort services for the truck convoys moving from one location to the other. The vehicles were exposed and vulnerable and came under occasional fire from military positions but the missions, staggered over a period of several weeks, were carried out successfully. Loading of the passengers was often handled under tremendous stress, particularly when ethnic Tutsis, who had escaped midnight forays by interahamwe into the church, were being loaded at Sainte Famille. Despite the risks and the physical incapacity to thwart any aggressive action, the transfers were conducted with no loss of life. This is a tribute not to the UNAMIR force, but to the individuals both military and civilian, whose courage carried them through the fulfillment of their respective assignments.

There was a spirit of bravery and friendship within UNAMIR that nullified the physical limitations of the mission. One Senegalese captain, MBai Dieng, epitomised that character, and his actions were a tribute to all who participated in the mission. Captain Dieng transported roughly 200 Tutsis from some of the most dangerous parts of Kigali in former government held territory across barriers and through roadblocks manned by those to whom murder and mutilation became second nature to safety behind RPA lines. He traveled those roads more than 40 times (against orders) carrying a few passengers at a time

convincing all those along the way that the people in his car were not for killing. On one particular day, Captain Dieng was traveling from his residence at the Mille Collines to UNAMIR headquarters on the other side of town. When he reached the forward line of the Presidential Guard, the unit manning the bunker at the Kigali Night Bridge came out in full numbers to greet him. Ironically, an RPA mortar, aiming to knock out the contingent guarding the bridge, landed behind his car. He was killed instantly when shrapnel entered the back of his head. The death of Captain Dieng had a demoralizing effect on the UNAMIR forces and led to the personalization of the conflict. The death of the single-most beloved man in the unit left the Force Commander with a difficult challenge to his authority. Mutiny was not out of the question; nor was retaliation from the closest friends of deceased. Military discipline, rational thinking and strong leadership averted what could have resulted in a total abandonment of the mission or an act of aggression against those responsible for his death.

There can be little debate about who in a mixed mission of military and civilians should be responsible for security and protection. The capacity of that force should, however, be adequate to ensure the protection of the intended beneficiaries of that presence as well as the members of the mission itself.

Humanitarian Delivery by the Civilian Team

The delivery of humanitarian supplies (maize, beans, flour, corn soy blend, high energy biscuits, plastic sheeting, medicines, water and other materials) was conducted by the civilian humanitarian team accompanied at times by unarmed UNAMIR military observers during the early stages of the war and later mostly on their own. The supplies came from the scant quantities delivered by air and quantities of food taken from WFP and NGO warehouses scattered throughout the industrial area and Kicukiro, a semi-industrial/residential area in southeast Kigali, all of which were located in frontline areas of the battle for the city.

In the first instance, it was necessary to extricate WFP trucks from the industrial area of Kigali so as to utilize them for the delivery of supplies to the various populations in the city. This was done in three stages until five trucks loaded with maize and beans could be driven out of the compound, twice under sniper fire. After the cargo was delivered to the various concentration points of displaced people, the United Nations Humanitarian Assistance Team (UNHAT) ventured into the warehouses to load commodities. Initially this required a bolt cutter to cut the existing locks and padlocks to replace them. All loading was done by the UNHAT members off times assisted by journalists as the vicinities of the warehouses were devoid of persons willing to expose themselves and their families.

Once trucks were loaded, the decision was made to either deliver the goods to the respective concentration points or park the trucks for the evening, the time of day being a determining factor for all movements through the city. Generally, the best time to travel into interahamwe, FAR and Presidential Guard-held areas of the city was before noon as most of the individuals manning the roadblocks (there were 23 from the furthest line forward of the former government forces to Saint André College in the southern neighborhood of Nyamirambo) were either drunk on beer freely distributed by the former government forces or stoned on potent marijuana readily available on the streets by early afternoon. Their demeanor was also evidently influenced by the success of their hunting for victims that particular morning. Those who had satisfied their thirst for blood were often subdued whereas those who had not yet had their fix were clearly irritable and easily agitated.

Consequently, hassles and threats at roadblock were a constant occurrence for the UNHAT members and on several occasions unarmed African UNAMIR military observers, saved the lives of their civilian colleagues by convincing the interahamwe not to kill their caucasian companions. The UNHAT members were also subjected to numerous direct armed attacks on them, including heavy machine gunfire, rocket-propelled grenades and mortars. They escaped physically unscathed, not because of any effective military strategy they employed but because they followed their one standing rule to the letter and were either awfully lucky or were protected by the gods.

The role of the press

Without question, the foreign press played an integral role in bringing attention to the genocide in Rwanda. The internal press, however, contributed enormously in inciting the population to embrace the genocide and perform the actions designated by the genocide's engineers.

During the genocide in Rwanda, foreign journalists working in Kigali (there were usually 30 at a time staying in the Meridien Hotel) were asked by the Force Commander to be judicious in their reporting of atrocities they encountered. The reasoning behind this request was a belief that too much attention drawn to the plight of Rwandans would either encourage retaliation or incite the perpetrators of the genocide to even further violence. There are two ways one could have addressed the problem: Tell the world all that is happening and risk counter-accusations and uncontrollable retaliation or limit the information (the graphic footage of Lindsey Hillsum left the world with no doubt as to what was transpiring in Rwanda) in hopes of containing the genocide. The press generally complied with this request and kept its reporting to that of essential information.

Although the rationale is likely to be debated by some, an example of the attention factor is illustrated by the visit of French Minister Bernard Kuschner to Kigali on two separate occasions. The purpose of his visit was to organize the evacuation of unaccompanied children from Kigali to France. The first visit proved fruitless and resulted in a number of confrontations with the interahamwe who were not in favor of the removal of Tutsi children from behind former government lines. On the second attempt to export the children, the Minister paid a visit to Saint André College in Nyamirambo. The interahamwe in the neighborhood were clearly agitated and believing that the children would be taken away, after the departure of the Minister they attacked the college, wounded a priest, carried away the children and then killed them all.

Zone Tourquise, Political Agendas and Security

Reports available in July 1994 estimated that 200,000 Rwandans had been killed. In light of this, the United Nations Security Council authorized the establishment of UNAMIR II under a Chapter 6 mandate. When preparations for that operation stalled, the Government of France, which requested to intervene, was authorized by the United Nations Security Council to send troops into Rwanda on its own under a Chapter 7 mandate. The resultant Zone Tourquise was outwardly established to ensure the safety of hundreds of thousands of Hutus fleeing the advances of RPA troops and provided a buffer in Rwanda's southwestern prefectures of Cyangugu, Gikongoro and Kibuye.

Looking back at the operation and the effect it had on Rwanda over the course of the proceeding four years, it would be difficult to now view the action in positive terms. While it was sanctioned by the United Nations, Zone Tourquise did in fact protect the perpetrators of the genocide and

the fleeing Rwandan Armed Forces from having to surrender to the RPA. It also subjected nearly two million civilians, whose fears were heightened by the "need of French forces to protect them from the inkotanyi", to the harsh conditions in Eastern Zaire that led to the deaths of tens of thousands of Rwandans due to cholera and exposure. Rationalising the uprooting of hundreds of thousands of farmers from their land as a humanitarian intervention to protect innocent civilians from revenge killings was completely unfounded and demonstrated a myopic view of what would transpire if the conquering army was allowed to proceed unchecked. The fact is, on July 17 the new Government of Rwanda controlled the entire country except the areas of Zone Tourquise and evidence had already clearly shown that high discipline within the ranks of the RPA prevailed and that indiscriminate killings and retaliation were extremely rare.

The clear impact of Zone Tourquise was to enable the FAR and interahamwe to regroup and lick their wounds and to organize themselves for subsequent forays into Rwanda and to continue the genocide to which events in western Rwanda from 1995 to the present are testimony.

Was Zone Tourquise the manifestation of political, social or economic interests of an influential member of the Security Council (particularly France) or of the world conscience (particularly the United States) for having allowed the genocide to transpire? Although mistakes of the past should empower the world to avoid repeating the same errors in the future, has the international community learned from Rwanda? Has there been established, since the genocide in Rwanda, a construct within the United Nations to which information can be brought, analysed and processed to ensure that similar decisions made in the future have weighed the potential long-term consequences against the short-term gains? When the next international crisis arises, will the political prerogatives of influential nations take a back seat to clear and objective analysis and planning? Or, will the political agenda of one of its members prevail?

Support to the Refugee Camps vs. Support to Rwanda

The international community poured an estimated \$1,000,000 per day for two years into the refugee camps in the former Zaire, the same camps which unmistakably harbored armed interahamwe and ex-FAR elements who launched attacks into Rwanda during the course of their existence. Those who fled Rwanda at the end of 1994 carried with them the political structures which planned and implemented the genocide, and while the vast majority of the refugees were innocent victims of the war, they were largely controlled by the forces of evil responsible for the deaths of hundreds of thousands of their countrymen.

International conventions and United Nations resolutions which dictated that refugee camps be established a minimum of 50 kms from the borders of the country of origin of the refugees were ignored. Armed elements, which by the same conventions and resolutions, should have been separated from true refugees, were allowed to remain. The international community was unable or unwilling to offer the means to eliminate the imminent threat to Rwanda and survivors of the genocide, although they had ironically possessed that capability during Zone Tourquise. A request from the United Nations High Commissioner for Refugees to have the camps moved to a more suitable distance from the Rwandan border was rejected, partly because their location suited Mobutu Sese Seko's political and economic purpose and partly because the operation would have necessitated serious external military support at a time when interest in such interventions had waned.

transformation in attitude been sufficient and punctual enough to avert a new liturgy of international community debates in Rwanda in the future?

Recommendations

- * UNAMIR should be evaluated for its successes as well as its failures in Rwanda and the lessons learned from both perspectives applied to future interventions.
- * Had UNAMIR not been reduced in size and capability, particularly with the withdrawal of the Belgian forces, in April 1994, the genocide might have been averted. Commitments to international peacekeeping operations should be made within a legal framework that prevents a contributing nation from withdrawing their forces to the detriment of the overall mission.
- * Had UNAMIR maintained its pre-genocide capacity and been given the authority to intervene, it could have neutralized Radio Mille Collines and stopped the spread of the genocide. A special unit of paracommandos could have easily incapacitated the radio station at little risk to its members. The world body must be able to decide and grant the authority to its forces to intervene.
- * On 17 May 1994, the UN Security Council agreed to provide the logistics support to revamp UNAMIR's capacity. Had it promptly acted on that decision, several thousand people who had not yet been massacred could have been saved from the fate to which they eventually succumbed. The United States, which had agreed to provide the logistical support to that operation, balked at its pledge, asking who was going to pay for it. Commitments made by member nations must be honored or privileges should be revoked.
- * In retrospect, Zone Tourquoise was initiated in support of the political interests of France. Had the operation not been initiated, security problems which have haunted Rwanda in the years since 1994 would have been greatly curtailed. Interventions should be based upon the objective analysis of their immediate and long-term implications.
- * If the refugee camps in Zaire had been moved to a greater distance from the border, infiltration by interahamwe and ex-FAR could have been better controlled. As it was, the porous border between Zaire and Rwanda and the physical proximity between the camps and Rwanda encouraged incursions by armed elements into Rwanda. Future locations of refugee camps should be in compliance with international conventions and UN resolutions.
- * The international community must assume the responsibility for separating armed elements in refugee camps from innocent civilians, regardless of the political will of the host nation.
- * During the two years immediately following the exodus of refugees, the international community spent more money on refugee camps in Tanzania and the former Zaire than it initially did on reconstruction efforts in Rwanda. Better late than never, assistance to the Rwandan Government enabling the country to move forward in development and thus towards reconstruction and reconciliation should now be made generously available.

*This paper does not necessarily reflect the views of the United Nations Organization.

The inability or lack of political will of the international community to move the refugee camps in conformity with international conventions clearly had a negative impact on the immediate future of Rwanda. Similar dangers and threats caused by refugee camps being located in close proximity to countries of origin continue to threaten security in the Great Lakes Region and contrary to the views of a senior UNHCR official, the opinions and feelings of refugees should determine the locations of the camps. The book needs to be re-opened and the advantages and disadvantages must be re-evaluated.

At the time the refugee camps were being established in Tanzania and the former Zaire, UNAMIR increased its presence to pre-genocide levels and the international aid community swooped in on Rwanda led by a UN humanitarian apparatus that was impressive for its size as well as for the vehicles they rode in on. Donor governments pledged nearly \$2 billion in assistance, very little of which has thus far materialized in the form of bi-lateral contributions. The impact of those contributions being channeled mainly the United Nations and non-governmental organizations rather than through Government, suggested that a policy of humanitarian colonialism prevailed. On the one hand, donor governments defended their judicious provisions of funds claiming that the Government lacked the capacity to manage it; the Government, on the other hand, lacked the ability to build that capacity because it lacked the funds to do so.

The nascent Rwandan government, unwilling at the time to look the proverbial gift horse in the mouth, soon began to sense that their metaphors were confused: The international community was in fact not a gift horse but a Trojan Horse bent on destroying the city-state and inflicting more pain and suffering on a people that had already endured more pain than any society in recent history. They saw resources that might have been made available to realize their own vision being made available for programs that met donors' priorities. So as to benefit however marginally from those contributions, the Government sacrificed gains in areas that they felt would lead to more sustainable development.

Repatriation, Justice and Reconstruction

The massive return of more than one and a half million people to Rwanda in the last two months of 1996 flooded a country that had enjoyed relative peace (interrupted by regular attacks of interahamwe and ex-FAR on local populations launched from camps in the former Zaire) in the two years previous. Among those who returned in the mass exodus were significant numbers of the same interahamwe and ex-FAR and many of them entered uncontrolled by security forces in Rwanda.

While important numbers of the ex-FAR returned with the intention of re-integrating into society, there were other significant numbers of persons who preferred to return to the ways of the genocide. There have since been fluctuations in the levels of insecurity, which for the most part have been confined to the northwest of the country, and critical improvements have been made in all sectors of society.

There has even been a hint that the western conscience, the same that absolved itself of responsibility for the genocide in New Testament fashion, has started to change its attitude towards the process of reconstruction and reconciliation in Rwanda so as to allow the Rwandans to create the necessary conditions. Has the western conscience fully realized that national reconciliation and reconstruction is a slow process that requires placing trust in the Rwandan Government to identify and implement a Rwandan solution to the deep-rooted problems in society? If it has indeed come to that realization, has that

U.S. MILITARY PLANNING FOR PEACE OPERATIONS AND COMPLEX HUMANITARIAN EMERGENCIES

THE TROUBLED PLANNING ENVIRONMENT

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Summary: While usually demonstrating considerable enthusiasm and dexterity in response to specific international humanitarian crises, the US military, as an institution, maintains a discrete and uncomfortable reserve towards such emergencies. The ambiguity of the US military in regard to foreign humanitarian activities is demonstrated in its planning processes, the ways it exercises and, of course, in the current doctrinal debate over the shape of the future force. Among the practical effects of the muddled vision about the US military role in such ventures are slow planning response times, vastly increased deployment costs and additional risks to potential allies and partners on the humanitarian battlefield and to US forces. In this presentation, we examine the context of post-Cold War complex humanitarian emergencies and make recommendations to improve the military planning framework to deal with these emergencies.

I. The Humanitarian Battlefield

International peace and security continue to be affected by inhumane events in Central and Southern Europe, West and Central Africa.

¹ In Somalia, Rwanda, Uganda, Liberia, the former Zaire, and elsewhere, noncombatants have become the standard cannon fodder for intrastate conflicts. Financial and political collapse in Central Europe and Asia raise the possibility of failed and failing state in those regions as well. During the Cold War, the consequences of these types of perturbations were promptly managed either by the Great Powers or by international agencies because unstable states were considered dangerous to the maintenance of international order. Despite the vast increase in the number of wars in which various protagonists target civilians with impunity, there still are no clear mechanisms available to respond to this unattractive aspect of the New World Order. Following the apparently successful conclusion to the Cold War, and in the absence of needed redefinition of national interests, the focus of many US policy-makers has shifted inward. These factors have created an international policy vacuum in which the seeds of ethnic, local and regional rivalries flourish.² In several areas, evolving US military doctrine reflects this sad demonstration of sagging international civic virtue and responsibility.

The UN Charter was designed to mitigate potential conflicts between states. Intra-state conflicts are a class of conflict virtually ignored in the UN Charter. Equally, traditional peacekeeping precepts, developed during the Cold War, have little relevance to intrastate conflicts. The UN Charter places national sovereignty above all other rights, a concept which guarantees protection and impunity for local leaders to impose their will on friends and to mistreat their neighbors. Nonetheless, the post-Cold War period has led to a proliferation of United Nations Security Council (UNSC) resolutions dealing mainly with humanitarian issues. Between 1945 and 1988, the UNSC passed an average of 15 resolutions a year. Between 1990 and 1995, the Security Council passed an average of 65 resolutions per year.³ The UNSC activity is more indicative of international concern than it is of resolve.

The political setting to humanitarian intervention is a fundamental complication for generals, politicians and humanitarians. By definition, complex humanitarian emergencies are caused by people. US military planners obviously understand that real world crises are largely the result of actions taken by political actors, but tradition, training and doctrine cause them to avoid political issues because they normally fall outside military purview. The result is a kind of political myopia that prevents the most efficient utilization of military resources and development of a coherent and realizable end-state. In the author's view, it has been the failure to develop and articulate meaningful political strategies for intervention that has caused so much skepticism about peacekeeping in the US Congress and among the US public.

Within the humanitarian community, there is also growing concern about its inability to avoid the political repercussions of humanitarian intervention. Traditional impartiality and neutrality are no longer seen as protection to humanitarian workers, and increasing casualties are being taken by international and non-governmental organizations engaged in relief activities. John Prendergast, a humanitarian activist with considerable experience in the Horn of Africa, has observed that "The complex crises which exist...in Africa require more meaningful political engagement from donor governments and international organizations than they presently receive...the substitution of humanitarian action for deeper political engagement allows symptoms of emergencies to be treated, leaving root and proximate causes relatively intact and allowing egregious violations of fundamental human rights to go unaddressed..."⁴

A decision to ignore the political facts on the ground was inherent in the December 1992 intervention in Somalia. The US-led Unified Task Force (UNITAF) adopted an unrealistically narrow focus: in order to minimize prospective casualties during a short-term operation, the US adopted a highly conciliatory posture towards the two principle warlords in the Mogadishu area. As a result, one of the warlords emerged from the UNITAF period far stronger than he was at the beginning. The consequences of making short-term deals with the Mogadishu warlords had very negative ramifications for the UN-led forces that followed.

Contrary to the hopes and expectations of Pentagon planners, the temporary presence of UNITAF had a profound political impact on the Somalia situation. The UNITAF disposition of forces effectively shut down the internal lines of communication of several major factional groups, with an immediate impact on the dynamics of the Somali civil war. Mohamed Farah Aideed, the principal beneficiary of UNITAF attentions, waited out the presence of the strong UNITAF force and chose a moment in which he believed the United Nations Operation in Somalia (UNOSOM II) was weak; he initiated a war against the United Nations just a month after the departure of UNITAF. The consequences of false premises and the failure of long-term planning led inexorably to the events of October 1993 at the Olympic Hotel and the subsequent US retreat from Somalia. Had there been a proper assessment of the political effects of the UNITAF deployment on the political dynamics of Somalia during the planning process, different military and diplomatic tactics would have emerged, with a greater chance for success of the subsequent UN operation.⁵

In his controversial 1994 *Atlantic Monthly* piece "The Coming Anarchy,"⁶ Robert Kaplan laments that Western observers cannot fathom the subtle ways of the Third World. Although his hand wringing was based on an extensive tour in West Africa, he clearly was also chastising those who imagined that "nation-building" in Somalia could be a worthy enterprise. His article found great resonance within the US military, which, as a group, generally feels very uncomfortable with operations in Africa. A partial consequence of the attitudes of Kaplan and people of similar skepticism is reinforcement of the view that nothing practical can be done in the hapless Third World and that, therefore, it is better to avoid planning anything that smells of political activism or rebuilding civil societies.

On the contrary, it is generally quite easy to identify the interests of groups contending in intrastate conflicts. There certainly were few mysteries in 1993 in Somalia, other than why the USG was so reluctant to become politically engaged in a country that it largely controlled. Assessments of the political motives, goals, levers and resources of all protagonists in intrastate conflict should be included in all political-military deployment and exercise planning documents. How do military campaign planners ensure that military support to humanitarian operations is relevant to long-term solutions? Broadening the focus of military planning and exercises can only achieve this.

If you look at the historical background to most modern peacekeeping and humanitarian operations, you will find that they begin as the result of dysfunctional political systems, bad leadership and/or simple human cupidity. Chinua Achebe, the first African Noble Prize-winning novelist, from Nigeria, entitled one of his most well known works "Things Fall Apart."⁷ In this book, he describes how a society falls apart as key members pursue their selfish ambitions. Presented in figure 1 below is a hypothetical sequence of events in a man-made emergency. We see a disaster sequence all too familiar (Liberia, the former Yugoslavia, Somalia, Zaire, etc).

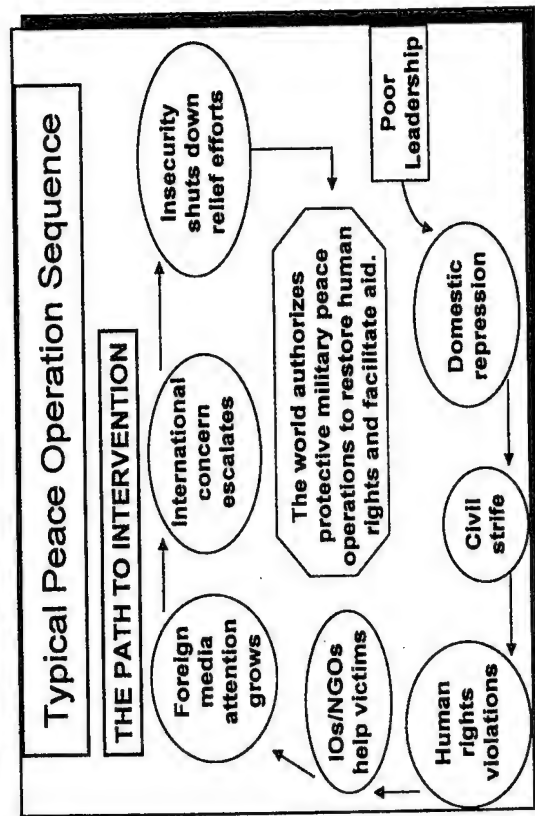


Figure 1

While this characterization may not conform to every situation of state failure or collapse, it pictures a very common sequence of events: a. Poor leadership and domestic repression are probably the most predominant feature of government in the world today. The inability of the world community to sanction bad actors results from applying corrective efforts at the government-to-government level; b. The most common forms of repression by governments and warlords directly affect the rights of individuals or groups; c. Non-governmental organizations largely developed in response to crisis situations in far-off places where foreign governments could not tread. Many of the most active NGOs in the world today emerged during the period of the Biafran war; d. The proliferation of international media ensures that wretched situations do not go unrecorded; e. The most predominant triggering event for international intervention is when domestic crises shut down relief efforts and produce unspeakable human rights violations. As earlier noted, most intervention situations begin during the humanitarian crisis phase, but end as they began, as political crises.

Figure 2 portrays a poor third-world state lurching towards a failing-state situation. The graphic illustrates how a short-term resource crisis (this may be in food, medicine, medical supplies, etc.) may require foreign military assistance while the international response crisis goes through more extensive

procedures. Appreciation of the plight of the victims, the leading role of international and domestic humanitarian organizations to respond to the growing disaster, and the initial military support requirements for the humanitarian effort should be the central focus of US military planning for support to complex humanitarian emergencies. Unfortunately, the current US military planning process blurs rather than clarifies these issues.

2. The US Military Planning Environment

The two Presidential Decision Determinations (PDDs) which apply directly to peace operations are PDD-25 (April 95) and PDD 56 (May 97). Many people believe that the former generally provides a lengthy list of tests to generate reasons for not becoming involved in such operations.⁸ The latter provides, as we shall see below, a somewhat more coherent format for decision-making within the US Government. PDD-25 led to the establishment of a senior policy group, the Peacekeeping Control Group (PCG), which reportedly uses the checklists in that document to make recommendations to the senior officials. PDD-56 provides, as we shall see below, a coherent format for decision-making within the US government. The two documents include sections that remain classified, but the general thrust and implications of the documents are well known. They have a direct bearing on military planning, and some of the shortcomings of PDD-56 will be discussed below.

It is ironic that the great combat of the Cold War was fought out over the arid stretches of the Arabian Peninsula. The successful conclusion of that combat was followed immediately by previously planned reductions in US force levels and a proliferation of doctrinal publications intended to provide direction to the remaining force. Among the multi service publications most relevant to humanitarian operations are Joint Publication 3-0, *Doctrine for Joint Operations* (1 February 1995) and the *Joint Task Force Commander's Handbook for Peace Operations* (16 June 1997).⁹ The former discusses at length the development of strategic plans for all types of military operations. The latter focuses on operational issues at the Joint Task Force level and contains a number of very useful insights derived from various peace operations in which the US has participated.

The traditional military leader in doctrinal development is the US Army, and the joint doctrinal materials above reflect various Army Field Manuals that address doctrine for participation in humanitarian operations. One such manual is *FM 100-23: Peace Operations* (December 1994). This document is strongly influenced by often-distorted lessons from the peacekeeping operation in Somalia. This manual is scheduled for much-needed revision. The most important Army Field Manual that impacts on planning is *FM 100-5: Operations* (June 1993). This keystone document lays out the current doctrine for all US Army warfighting activities. To understand the significance of these publications, one must appreciate the importance to the military of doctrine, which is defined as follows:¹⁰

Doctrine:
Fundamental principles by which military forces guide their actions in support of national objectives. Doctrine is authoritative but requires judgment in application.

Including the ongoing current revision of *FM 100-5*, there have been 14 editions of this key publication since the first one was published in 1905.¹¹ The doctrinal term: "Military Operations Other Than War"

(MOOTW), which includes all peacekeeping, humanitarian and non-war fighting scenarios in which the military may be involved, was used for the first time in the 1993 edition of *FM 100-5*.¹²

In the preface to 1993 version of *FM 100-5*, the Army describes its mission, which is "to protect and defend the Constitution of the United States of America. The Army does this by deterring war and, when deterrence fails, by achieving quick, decisive victory – on or off the battlefield – anywhere in the world..." While no one can disagree with this central goal, this does not sound like a recipe for effective participation in international complex humanitarian emergencies. The Army mission statement reflects the great contemporary unresolved debate within the US military: why do we deplete our war fighting capabilities by participating in foreign humanitarian operations? When one understands the extent to which US military commanders hate the "three Ps" – politics, peacekeeping and police work – it is easier to understand the difficulties of developing a rational planning process for military support to humanitarian operations.

It is interesting that one of the major arenas where the debate within the US military over its future roles and missions involving humanitarian and peace operations is being fought out is within the ongoing revision of *FM 100-5*.¹³ According to some commentators, there was considerable resistance to inclusion of MOOTW in the 1993 edition on the grounds that *FM 100-5* is intended as a guide to war fighters. The term did not appear in the previous (1986) edition or earlier editions. For the literal-minded, MOOTW is the acronym for "military operations other than war" and, therefore, it has no place in a war-fighting manual.

Although the introduction to the 1993 edition of *FM 100-5* notes that it is "the authoritative guide to how Army Forces fight wars and conduct operations other than war," the MOOTW concept is virtually expunged from the current *FM 100-5* draft. Nearly all peace operation participants agree that a well-trained and well-equipped military force deployed into a peace operation must be fully skilled in the operational arts of war. Where the emerging doctrinal document appears to go wrong is the context in which it deals with peace operations. All such activities are now lumped into a chapter that deals with "stability operations." Stability operations are defined as operations designed to: "deter or thwart aggression, reassure allies and friendly governments, encourage weak or faltering governments, stabilize a restless area, maintain or restore order, and to lend force to agreements and policies."¹⁴ Failed or failing states may not merit being propped up by the US Government, but they can host humanitarian crises of dramatic proportions (i.e. Rwanda, 1994).

The preamble to *FM 100-5* also ignores the need to cooperate with and support international and local humanitarian communities. It is hard to see how US military actions to support human rights monitors, for example, can be justified within the new doctrine. Given the propensity to resort to literal interpretations as means to avoid unpleasant issues, the future of military support to humanitarian operations is more equivocal than ever.

Implementation of US military doctrine in operational planning finds itself in two very different contexts: (1) The "deliberative planning process" is more free form and is handled at a slower pace. It generally percolates through the Pentagon until an actual crisis takes place. Most Pentagon observers believe that deliberative planning is a weakness in the military planning armor. It may be that the bias against peace and humanitarian operations causes Pentagon planners to avoid unpleasant subjects; and (2) "Crisis action planning" (CAP) has a standard format and routine to facilitate rapid responses to the frequent crises which may involve the deployment of US military forces.¹⁵ The two planning systems may be aligned in the "Joint Operation Planning and Execution System" (JOPES) which is outlined Joint Publication 5-0, *Doctrine for Planning Joint Operations*.¹⁶ Both systems are intended to provide properly trained and equipped forces in the right place and at the right time. Neither system, as now

constituted, provides for the development of a coherent multinational, multilateral humanitarian operation. With the exception of NATO, which has elaborate and well-prepared coalition doctrine to respond to threats directed against alliance members at the outset of any crisis, the US military planning response is structured primarily to facilitate a unilateral projection of force.

This effectively represents a regressive step for US diplomacy. With virtually all countries in the world looking for post-Cold War US leadership, the US appears content not only to decline the honor but to weaken brutally the only instrument capable of providing a multilateral global forum to mediate conflict, the United Nations.

3. A framework for comprehensive planning

The environment in which military forces may be committed to support complex humanitarian emergencies is a very complicated one. Given the current ambiguity in US military thinking about support to complex foreign humanitarian emergencies, an improved planning framework for duly authorized foreign military forces to intervene in such conflicts is needed. It is significant that US military exercises which focus on humanitarian and peace operations make little reference to the security concerns of the international and non-governmental institutions which are usually already deployed on the humanitarian battlefield and are the leading elements of the life-saving activities.

In the ideal world of military planning, all crises have a beginning, middle, and an end. In fact, military intervention will usually take place well after a crisis begins and when the battlefield is already well populated with representatives of the international humanitarian agencies, non-governmental institutions and local voluntary agencies. These groups will almost certainly remain there after the military leaves. The military clearly has the right and the obligation to assist in the planning phase and develop what the spectrum of their tools should include within the crisis continuum, but the planning and exercise process must recognize the broader context in which the military acts as a significant supporting player.

Few military leaders are sensitive to the fact that the arrival of a heavily armed foreign military force in a disturbed environment places most humanitarian and non-governmental organizations at increased risk. If these groups fall outside the security umbrella of the intervening force, they become a soft target for elements intent on mischief. This remains a substantial problem in the Balkans, where the Dayton Accords set up a system in which the humanitarian-security-diplomatic triad were rigidly separated. This probably reflected the familiar admonition of former Chairman Shalikhvili who liked to remind everyone that "the military should stay in its own lane." With all due respect, this instruction does not reflect the realities of humanitarian emergencies; by definition a humanitarian effort is a multi-laned highway.

On the humanitarian battlefield, the main force is composed of foreign and domestic humanitarian workers who are working in parallel to save lives and restore peace. To be effective in support, the intervening military force must be prepared to share its expertise and resources in order to achieve success. It must be conscious of the fact that the military is heavy traffic. To belabor the analogy some more, the military should stay to the right, and not pass, which is generally pretty safe advice. To operate effectively, all participants must be aware of what is going on in the other lanes. Civil affairs' techniques should be changed to invite tank commanders to keep out of the way of refugees and internally displaced persons, and not the contrary, which is the current tactic.

There is a logical sequence to peace and humanitarian operations. This logic does not change by the injection of arbitrary time schedules from the outside. Essential to understanding the logic of CHE and

peace operations is the certainty that the context changes over time. A military planner should think in terms of successive laps, as in a relay race, in which the military plays a coherent and critical role, consistent with the activities being carried out when it arrives, and plans a smooth hand-off when the military contribution is completed. Failure to plan or exercise the force properly to accommodate the phases of an operation cannot be swept under the "mission creep" rug.

The phases outlined below demonstrate the range of activities which may take place on the in a humanitarian crisis.

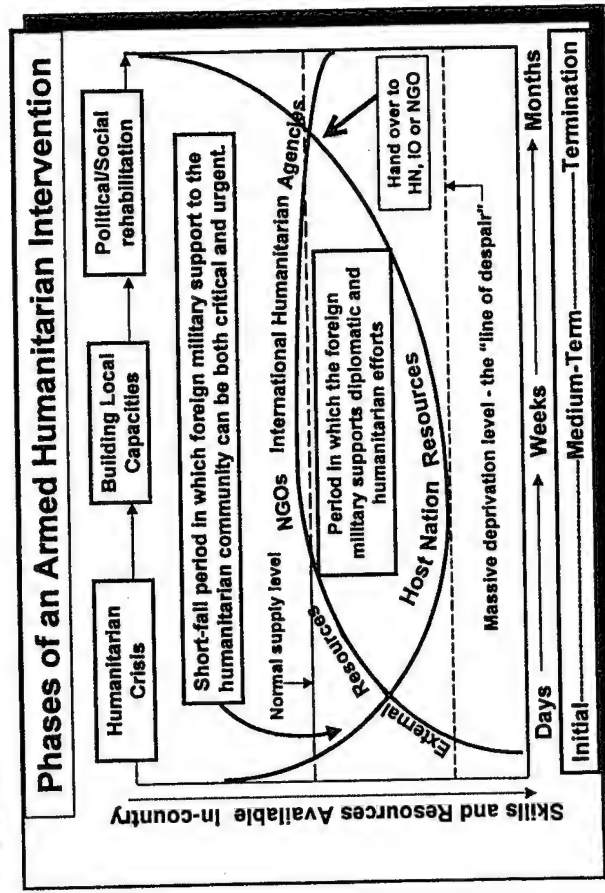


Figure 2

Time is usually the essence in planning. This was the situation in mid-1992 in Somalia after the collapse of the central government and the war for Mogadishu had cost the lives of approximately 35,000 non-combatants in the previous 18 months. As Mohamed Farah Aideed sought to extend his influence beyond the southern Mogadishu area that he had taken over in 1991, he employed starvation and intimidation to ensure victories over those that he displaced and those that he simply wished to dominate. The ensuing complex emergency drew the interest of many international and non-governmental humanitarian organizations. When Aideed and other warlords prevented the distribution of relief goods, the international humanitarian community clamored for a military intervention to open the warehouses and highways. For domestic political reasons, the Bush administration could not contemplate an intervention during the pre-election summer of 1993. Fortunately, the deliberative planning process earlier initiated in the Pentagon provided options for the President to pursue after his failure in the elections. Unfortunately, these options did not include any longer-term goals for the intervention.

In the first phases of the Somalia operation, the military was employed to bring in food and to facilitate the movement of humanitarian workers. This was the equivalent to working in the large spoon-shaped area in fig. 2, the period when international military-civilian cooperation and collaboration is the most critical and should be at the highest levels. Following this initial period, the focus of the peacekeeping operation normally shifts to facilitating diplomatic and political efforts to generate political solutions to avoid future man-made crises of the kind that sparked the original intervention. Unfortunately, the Pentagon planners who drafted UNSC resolution 794 authorizing UNITAF were instructed to lay off the more complicated second and third phases of the Somalia intervention to a weaker follow-on force under the direction of the United Nations. Had the planning for Somalia been viewed within a broader framework, many of the mistakes could have been avoided.

4. The Comprehensive Campaign Plan

During the past three years, the authors have developed a planning framework, the "Comprehensive Campaign Plan" (CCP). The CCP was largely developed in the course of military command post exercises in the US Southern Command (SOUTHCOM); some parts of the CCP have been reflected in exercises in both the US European Command (EUCOM) and the US Pacific Command (PACOM).¹⁷ The goal of the CCP (see fig. 3) is

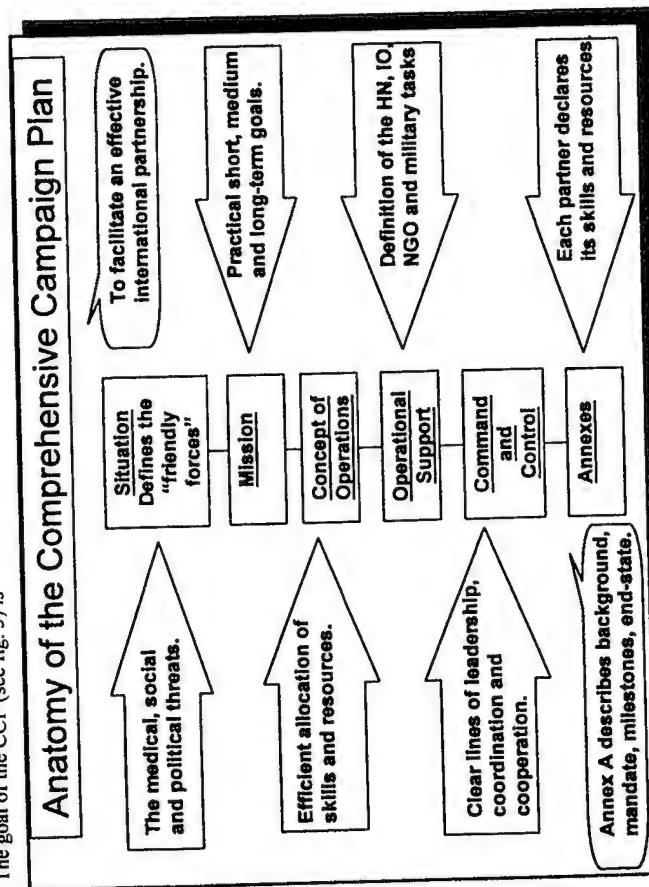


Figure 3

to provide a common framework for identification of mission goals, manpower, resources and specific plans of the various military and civilian humanitarian organizations involved in peacekeeping and humanitarian exercises. Once achieved, this "holistic" approach to political-military operations should facilitate the development of a plan that would stimulate greater cooperation, or unity of purpose. It would also serve to eliminate redundancies and permit experts of the international humanitarian and non-governmental communities to do their jobs.

The essential nucleus of the CCP is the five-paragraph military field operation order, which has been adopted by most militaries for its simplicity and focus. The five paragraphs lay out the critical themes for any proposed military operation: (1) an assessment of the threat; (2) a clear statement of the mission; (3) a review of the means to carry out the mission; (4) the support requirements; and (5) the organization of the force. The ultimate goal of the CCP in the international humanitarian-political-military environment is to develop common agreement on the ends, ways and means of resolving a given crisis. Once the main approach has been agreed upon, the details of each participant's contributions to resolution of the main themes are spelled out in annexes to the agreed-upon policy document. The CCP provides a useful framework to focus discussion and debate, and its discipline ensures that policymakers do not take artificial shortcuts to avoid deciding the hard issues. The first attachment to the CCP ("Annex A") addresses the critical political framework of the operation. The international and domestic political context is detailed, and the options permitted under the mission authorization (mandate) are discussed. Most importantly, the essential first annex also lays out achievable goals (milestones) and the desired end result of the international intervention. The constituent parts of the CCP are as follows:

a. Situation. The first paragraph of the proposed CCP includes a review of the various health, human rights and security issues affecting the vast numbers of refugees and persons displaced by the ongoing crisis. The friendly forces on the ground are, of course, the international and non-governmental humanitarian agencies that are already deployed on the battlefield. The initial "enemies" or threat list on this battlefield is likely to be impure water, disease, lack of shelter and the abuse of fundamental human rights. People can live for a few days without food, but they will not survive without water, or, depending on the climate, shelter. The CCP places these considerations up front. Other threats, including the presence of armed elements, both legitimate and illegitimate, would also be noted. The human rights and poor governance issues outlined in the first paragraph provide the foundation of the political framework discussed in the first annex of the plan.

It is unfortunate that the overwhelming attitude of the majority of senior military officers is how difficult it is to secure cooperation from the non-governmental community. People with experience in peacekeeping operations characterize efforts to secure NGO cooperation as the equivalent of "herding a army of cats." Times may be changing. It should be recalled that it has not always been easy for NGOs to work with militaries. The dysfunctional concept of "mission creep" still causes brave and decisive military persons to recoil from discussing necessary and logical issues of coordination with their NGO partners in the field.

As may be seen on the slide, the CCP approach provides a dynamic for cooperation. Many NGOs may opt to stand aside from such planning, but the flexibility of the CCP permits second thoughts about collaboration especially when unforeseen emergencies take place.

b. Mission. In this CCP paragraph, the goals of the operation are analyzed, taking into account the normal phases of a peace operation. As noted, nearly all peacekeeping endeavors begin as political problems leading to CHEs, then move on to the institutional rehabilitation stage before ending as they

started, as political problems. The art of creating a meaningful mission statement requires both coherence and appreciation of the long-term consequences of the intervention. It is not difficult to develop a mission statement for the humanitarian side of the operation. The military can establish quickly the basic security requirements for the humanitarian phase of the operation. However, security means more than just the security of the intervening forces; it must include reasonable security for non-combatants. If this means that police or gendarmes are necessary to develop or restore local justice, then it should be included in the CCP planning process.

c. Concept of operations. This provides a discussion of the diverse resources, capabilities and goals which each of the participating CCP partners bring to the crisis area. These would be matched to the threats and other requirements outlined in the threat statement. At this point the contributions of the host nation would have to be assessed and collated with the sum total of external resources.

d. Support tasks. The potential contributions of the military component are naturally of great interest to all participants in the operation. These would be discussed in detail; the creation of a security umbrella is the fundamental reason for the presence of the military in most CHEs and peace operations. The disarmament issue is also a chronic issue in most peace operations. Unfortunately, the US military tends to look at this matter strictly in force protection terms. In fact, forcible disarmament is rarely if ever a practical solution. What is needed is a comprehensive program to create political and security conditions in which the local population perceives its interests to be better served by participation in a political process rather than war. At the outset, this means the restoration of civil order. If there is to be participation of international police and legal personnel to facilitate the resurrection of a legal system, then the military component must extend its security umbrella to protect that process.

What are normally not needed from the military are hands-on relief operations and medical services. Military costs far exceed those of expert civilian agencies, usually by a factor of 10. Because of this, and other contributing nation political imperatives, the military contribution is often time-driven, and it can find itself taking on tasks which it can complete in a hurry but which would be better left for local authorities to perform. Even if this means that essential tasks are slower to realize, it is healthier from a longer-term perspective for the host nation to develop its own capacities. The intervening military must focus on those exceptional tasks that only it can perform.

e. Coordination and cooperation (command and control). The late and celebrated UN Secretary General, Dag Hammarskjöld, once observed that while peacekeeping is not a job for a soldier, only a soldier can do it. Despite the vast changes in peace operations in the intervening decades, and the enormous growth of the private and public international humanitarian community, this admonition still has relevance. Soldiers committed to a peace operation must be well trained and motivated. Military officers and men bring with them commitment, discipline and focused energy that no civilian agency can duplicate. Despite these qualities, the military must accept its supporting role. Contrary to the practice in some of the early Cold War peace operations (the 1960-64 UNOC activity in the Congo, for example), the military commander is not now in charge of running the peace operation mission. The UN Secretary-General usually appoints a Special-Representative to act as his agent on the ground. The presence of a senior civilian representative can be a difficult pill for some military personnel to swallow, although it recognizes the basic fact that the predominant political and humanitarian imperatives in peace operations should be managed by those who ultimately bear the responsibility for its success.

These are just a few of the benefits of comprehensive planning for emergencies. We continue to hope that the USG will see the benefit of using the multilateral approach fostered by the CCP to engineer a rational (user-friendly) hand over in Bosnia.

How would the CCP be administered in the field? It should be a highly sophisticated cell within the HOC with both J-3 and J-5 capacities. The CCP cell would probably be attached to the SRSRG Political Deputy's office. This should be properly exercised to learn where the problems lie.

When the author made a presentation on the Comprehensive Campaign Plan (CCP) at the African Studies Association Conference in San Francisco in November 1996, a staff officer on the US Joint Chiefs of Staff posed an excellent question: "Where are we going to get all of the information which the CCP needs to make it work?" Obviously a (preferably international) body should act as a collector and repository of information about countries and regions which are in trouble. Fortunately, such an organization already exists: The United Nations Department of Humanitarian Affairs (UNDHA) maintains a very active web site at its European headquarters in Geneva. It provides current information on dozens (currently 38) of emergencies (including natural disasters) in the world. Addition of a CCP-compatible reference and statistical package to that site to suit deliberate planning needs would also provide instant information for use in emergencies. An issue to be resolved is who should be designated to develop and coordinate a comprehensive campaign plan for a specific emergency. It should be a civilian. There is an inner logic to the CCP that would place leadership under the responsibility of the source of the operation's legal authority, the UN Security Council, but this authority can be delegated to a regional organization.

International crisis action planning must be institutionalized; this is an area in which the US military is particularly well experienced, and it should work with the UN to improve its capacities.

Another key to the future, of course, depends upon training prospective CCP leaders in broad multilateral crisis management.

5. Annex A - Prerequisite for military planning

The political annex to the CCP defines the non-humanitarian milestones and the political end-point objectives of the operation. Political milestones during the planning process should indicate the path to a satisfactory end-state. The annex will include all germane UN resolutions, conventions and treaties that affect the actions of participants. Please note that it is interesting that international conventions (genocide, treatment of prisoners of war, non-combatants, etc.) are not now included in peace operation mandates. The political annex will lay out the political milestones and goals of the peace operation. The CCP will reflect those resources and activities necessary to achieve the political goals. Another planning requirement is to define "end-state" in terms of the political situation you wish to leave behind. Because at present there are no internationally accepted standards for political-military intervention, the political annex will probably be the most difficult part of the CCP to negotiate.

The reality, of course, is that governments, even traditional allies, have agendas that are never exactly congruent with the interests of the intervening force. Political considerations nonetheless may provide the oil which enables the moving parts of an operation to move more smoothly.

6. Domestic Coordination

The five-paragraph military field order framework was also used as the model for the domestic planning model embodied in Presidential Decision Determination 56 (PDD-56), signed by President Clinton on 21 May 1997.¹⁸ The document defines "complex contingency operations" as peace operations such as IFOR and SFOR in the former Yugoslavia, Operation Provide Comfort (Iraq, 1991), Operation Support

Hope in central Africa (Rwanda, 1994) and Operation Sea Angel (Bangladesh, 1991). Although actual implementation of PDD 56 remains still a matter of contention, a early version is said to have been used in the preparation for the operation in Haiti. PDD-56 is not intended to supplant any domestic disaster relief planning processes.

The intent of PDD-56 is to institutionalize effective management measures to achieve unity of effort among US Government agencies and international organizations engaged in complex contingency operations. It is designed to articulate US interests and rationalize tasks among civilian agencies and the US military. Among the various goals outlined in the PDD are (a) to identify appropriate missions and tasks for US agencies; (b) to develop strategies for early response to crises; (c) to accelerate planning of the civilian side of operations; (d) to focus on personnel and funding issues at the onset of a crisis; (e) to integrate the US military, civilian and police components of a disaster response; and (f) to be able to identify those issues of most relevance to senior policy-makers.¹⁹

One of the problems of implementation of PDD-56 is that the two primary customers of the presidential order spring from diametrically opposed cultures. For officials in the Department of Defense, the discipline of planning tasks in a crisis environment is second nature. As a former State Department officer, the author can testify to the difficulty of establishing forward plans for crises. Within the corporate culture of the State Department, there is always fear that crisis planning will somehow diminish the number of options available for negotiation or other action. The military culture is task-oriented. Diplomats prefer to look at the long-term ramifications of actions.

Marriage of the CCP with PDD-56 would clear up many of the ambiguities in current US military training and doctrine.

—The adoption of a comprehensive campaign planning process at the international level would facilitate matching the vast skills and resources in the international community to the phased requirements of humanitarian disasters. It would alleviate some of the load now placed on certain western countries. It would foster ready integration of less-endowed military organizations into peace operations. It would increase the incentives for NGOs to plan and work with the international military and civilian agencies.

— It is interesting to note that adoption of the comprehensive campaign planning process could facilitate the transfer of US activities in Bosnia to host nations, international agencies and non-governmental organizations. One of the great services, which the comprehensive campaign plan can provide, is the ability to lay out for all to see the resource and skill availability that can then be matched to requirements.

—The comprehensive campaign plan, developed at the brigade level in Latin America, may be a useful vehicle for training African forces in coordination of efforts and implementation of the various phases of a peacekeeping operation.²⁰

7. Refining Exercises Using a Coherent Planning Framework

In the authors' view, exercises should be designed to push doctrine, not necessarily to support doctrine. The light came on in our Latin American military exercise series precisely when it became clear that the military contingent was not the main force; the military is learning that such exercises make much more sense when it attacks them in a support mode.

How do you construct exercises to include meaningful political signals? It is very important that the political dimension of a military exercise be a central part of the exercise planning process. To the extent that political factors are recognized as an integral part of planning (and by extension, the real world), there will be less of the tendency to blame "mission creep" whenever new requirements come along.

The genius of US military training programs is that we have traditionally exercised our forces against every conceivable contingency. The fact that many military commands continue to exercise their forces as though the United Nations, non-governmental institutions and other non-military actors do not exist is both unrealistic and a potentially dangerous case of denial.

In our view, the commander of a unit assigned to a peace operation, as well as military support to a humanitarian emergency, must come to the battlefield with a good deal of skepticism as well as a clear idea of the political end-state. This can be fostered in exercise by the simple expedient of creating a dynamic "political overlay." Military leadership has no difficulty understanding the fact of ulterior motives; the problem is found in exercise planners who either do not understand political subtleties or whose computer programs are inadequate to reflect such realities. The rigidities of most computer-driven exercises are such that valuable free play between exercise audience and role players is very restricted.

This can translate into bizarre situations. In one recent exercise, we analyzed mortality statistics in a simulated refugee camp situation which were presented in absolute numbers (i.e., 100 dead today vs. 75 yesterday; therefore the situation is getting worse). We found the absolute figures had not factored in a simulated vast increase in camp populations. Using internationally accepted statistical techniques outlined in the Disaster Assistance Relief Team (DART) handbook, we found that, in fact, according to the statistics provided by planner, the situation was improving and that mortality figures in the refugee camps were better than in the surrounding community.

In too many exercises we have seen the major technique used to simulate rising political tensions is explosions, explosions, and more explosions. Or, sometimes, we will see riots or attacks by bad-guy forces. Rarely are efforts made to place these events in any kind of political context other than the fact that the government in being has an opposition. Usually, the state, which the military is sent to assist in either humanitarian or peacekeeping support, is clothed in virtue and friendship. In such situations, it is more important than ever to question the motives of our friends.

8. Closing Observations

There are serious dilemmas complicating US military strategic planning today which must be resolved before the US can safely carry the mantle of leadership that world leaders would like it to assume:

- (1) The US military always insists on very strong UN Chapter VII mandates but strenuously avoids any situations in which such mandates might be invoked. This flows from the obsession with force protection issues. The public must be educated to understand that peace operations cannot be risk free. There is no such thing as a humanitarian surgical strike.
- (2) "Overwhelming force" vs. specialized units. It is perhaps ironic that "overwhelming force" increases our exposure to political and security problems. The US doctrine of "overwhelming force" ensures that all U.S. peacekeeping commitments are heavy and costly, but we resent the fact that they are expensive.

It is naive to expect the world community to pay for U.S. excesses. If US forces were smaller and more flexible, the cost of participation would be much lower and the resulting force would likely be more relevant to the needs of the situation.

(3) The US insists on a leadership role but, because of military aversion to politics, it is unwilling to foster the strategic vision necessary to lead peacekeeping operations. This myopia often leads the US to insist on leadership in peace operations, which it supports, but is not necessarily competent in multilateral and strategic issues.

(4) US military commanders tend to search for neat and tidy "solutions" to peace operation without analyzing the reasons for the crisis; bizarrely, when reality does not conform to our initial vision, some commanders find comfort in claiming "mission creep." One must think broadly in military exercise planning. It is not a legitimate use of scarce funding to shrink your exercise planning to accommodate unrealistic, but politically correct, scenarios.

(5) When "force protection" becomes "the mission," rather than remaining in its traditional position of being an inherent responsibility of command, no amount of planning will restore the focus of the mission. Protecting the force is not a new concept, and every commander worth his salt wishes to achieve victory without unnecessary loss of life among his or her personnel. But peace missions are inherently dangerous affairs. If we are unwilling to accommodate any losses in overseas operation, then we should quietly fold our tents and retire from world affairs.

(6) Despite the fact that we are the predominant permanent member of the Security Council, US policymakers prefer to depersonalize that relationship and blame "the UN" when things go wrong, even when the UN is doing our bidding.

X. Recommendations:

1. That PDD-56 be broadened to include a clear mandate to plan humanitarian operations in a multinational and multilateral framework. Insofar as the planning frameworks are identical, it would be a simple matter to establish a model linking the US domestic PDD-56 planning process to the international CCP model.

2. That the Revised Version of FM 100-5 include discussion of the support US forces can bring to humanitarian and peace operations.

3. That the US Government offer full cooperation, including financial support, to develop the UN Relief Web site in Geneva in order to achieve a useful universal database.

4. That US military exercise planning include multilateral and multinational opportunities.

5. That the US re-engineer its African Crisis Response Initiative (ACRI) training missions to emphasize the civilian political and emergency management architecture – and how the military should fit into that – not the other way around.

ENDNOTES

1. See Walter Clarke's "Waiting for 'The Big One': Confronting Complex Humanitarian Emergencies and State collapse in Central Africa," to be published in *Small Wars and Insurgencies* (Winter, 1998).
2. See Adam Roberts, *Humanitarian Action in War: Aid, protection and impartiality in a policy vacuum* (London: Oxford University Press and the International Institute for Policy Studies, Adelphi Paper 305), p. 96.
3. *ibid.*, p. 15.
4. John Prendergast, *Crisis Response: Humanitarian Band-Aids in Sudan and Somalia* (London, Chicago: Pluto Press, with Center of Concern, Washington, DC, 1997), p. 3.
5. It is interesting that a recent doctrinal publication acknowledges this negative lesson from Somalia: "During operations where a government does not exist, extreme caution should be used when dealing with individuals and organizations to avoid inadvertently legitimizing them." See *Joint Publication 3-0, Doctrine for Joint Operations* (Fort Monroe, VA: Training and Doctrine Command, 1 February 1995), part V-4.
6. The Atlantic Monthly (February 1994).
7. Chinua Achebe, *Things Fall Apart* (New York: Heinemann, November 1, 1996) p. 208.
8. For an erudite and neutral examination of PDD-25, see J. William Snyder, Jr., "Command' versus 'Operational Control': A Critical Review of PDD-25", <http://www.nebnet.com/headhome/dadmsc/liberty/pdd25anl.txt>.
9. These two documents are products of the Joint Warfighting Center at Fort Monroe, Virginia.
10. Headquarters, Department of the Army, *FM 100-5 Operations* (Washington, DC: 14 June 1993), Glossary-3.
11. See Major Michael McCormick, "The New FM 100-5: A Return to Operational Art," *Military Review* vol. LXXVII (September-October 1997), pp. 3-14.
12. The official definition of MOOTW is "military activities during peacetime and conflict that do not necessarily involve armed clashes between two organized forces."
13. The author has examined the 21 February 1997 "Coordinating Draft" for FM 100-5. A new draft is expected in late February or early March 1998.
14. *op cit.*, Part IV-3-1.
15. Joint Pub 5-03.1, *Joint Operation Planning and Execution System*, vol. 1: *Planning Policy and Procedures* (Washington, DC: Joint Chiefs of Staff, August 1993).
16. Joint Chiefs of Staff, Joint Publication 5-0, *Doctrine for Planning Joint Operations* (13 April 1995). Available on the internet at <<http://www.atsc-army.org/egi-bin/atdli.dll/jt5-0/5-0toc.htm>>. A set of briefing slides on types of military planning is available at this site.
17. See Arthur E. Dewey and Walter S. Clarke, *The Comprehensive Campaign Plan: A Humanitarian/Political/Military Partnership in "Total Asset" Planning for Complex Humanitarian Emergencies* (Washington, DC: Congressional Hunger Center, May 1, 1997) 27 p.+ annexes.
18. US Department of State, *The Clinton Administration's Policy on Managing Complex Contingency Operations: Presidential Decision Directive - 56* (May 1997) p.9.
19. *op cit.*, p. 5.
20. See "Ambassador Marshall F. McCallie & Colonel David E. McCracken: Briefing on African Crisis Response Initiative, Tuesday, July 29, 1997," Office of the Assistant Secretary of Defense (Public Affairs) p. 18.

FORGING PEACE: POLICING THE NEW WORLD ORDER

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Discussion Paper
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Like it or not, contemporary usage of the U.S. military instrument in peace operations has often born little resemblance to the high-intensity, high-tech battlefields that American soldiers, sailors, and airmen have been well prepared to dominate. Indeed, the most frequent demands have come from the opposite end of the conflict spectrum, where the skills of the mediator are often more relevant, and the essence of the mission is to rehabilitate, not annihilate. One potent therapy for this new world disorder, whether administered prior to state collapse or during an international intervention, is to have local institutions of public security--police, judges, and jailers--function properly. Most military officers have found themselves in uncharted territory when dealing with these matters, particularly when thrown into this complex task with a host of other international actors with whom they are largely unfamiliar (e.g., relief workers, human rights monitors, election supervisors, police trainers, etc.). Much of the learning has been on the job.

Since the dynamics producing the "new world disorder" are unlikely to diminish any time soon, it behooves the U.S. and the entire community of nations to refine our collective capacity to mount effective multilateral responses. This paper seeks to address this issue by identifying the gaps in public security typically confronted during peace operations and recommending measures intended to increase international proficiency at coping with them.

CLOSING THE GAPS IN PUBLIC SECURITY

Disorder is the condition most likely to prevail at the inception of this genre of post-Cold War peace operation. It is disorder in the form of an appalling incapacity of the state to perform its most basic function--protecting its citizens. Indeed, the "public security" apparatus itself has often been the instrument of massive public insecurity, sometimes nearly to the point of genocide. Restoring order becomes an urgent priority.

The Deployment Gap

The initial phase of a typical, post-Cold War peace operation entails separating local armed groups (normally pursuant to a peace accord), restricting them to cantonments or assembly areas, impounding their weapons, and demobilizing many of them. In some instances, one or more of these armed forces may be totally disbanded. Owing to the uncertainty of this process and the firepower available to the disputants, a military peacekeeping force is required to inspire confidence in and verify compliance with the peace process.

Since local law enforcement agencies have normally ceased to function or have become oppressive and even murderous forces, the international peace mission will likely confront an immediate need to perform certain police functions. The military is a blunt instrument when used alone for this purpose. It is capable of imposing only a basic, rigid form of order and limiting loss of life and destruction of property. Mobilizing a CIVPOL contingent is inherently time consuming, however, because most police forces do not have a significant surge capability, international mobility, or experience in operating beyond national boundaries.¹ In the early days of an intervention, therefore, the military is often the only source of order, since military forces have a capacity to deploy rapidly in unit strength, and police organizations typically do not. This is the

¹ As a practical matter, moreover, CIVPOL in the absence of a credible military back up would be of dubious value and perhaps even in considerable risk.

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deployment gap. It is one of several public security gaps that military peacekeepers are apt to confront. In this case, the gap is temporal in nature.

During this early phase, the peace mission is apt to be tested, and one vulnerable area will likely be the void in public security. If a single soldier errs by using excessive force, the entire mission can be placed in jeopardy because local consent may be squandered. Inaction, on the other hand, risks the loss of credibility and can give the impression the mission is failing. In either case, the peace operation may confront a "defining moment" before it is well postured to respond. The media spotlight will be unavoidable, since the actions (or inaction) of a deploying peace mission invariably produce dramatic TV news clippings. Failing to cope adequately with such challenges can have an enduring impact on public opinion and the credibility of the peace mission.

Recommendations for Addressing the Deployment Gap

There are two basic remedies for this gap:

- A. To minimize the gap, the capacity of the international community to mobilize CIVPOL personnel should be strengthened, both within contributing states and at the United Nations.
- B. Since this gap probably cannot be closed entirely in most cases, the military also needs to be prepared to discharge this function, on an interim basis, until the security environment has been sufficiently stabilized and the CIVPOL contingent has become operational. The recommendations put forth in the following section are intended to address these two requirements.

A. Strengthening Capacity to Mobilize CIVPOL Personnel

1. Develop a Stand-by Force of Trained CIVPOL Personnel
The Stand-by Force concept for assembling military troop contributions to peace operations should be adapted for use in CIVPOL mobilization.² The most significant difference would be that individuals, rather than entire units, would need to be designated as provisionally available. Member states would have to assume responsibility for ensuring their volunteers had received advanced training, either in-country or in certain third countries specializing in international police training (e.g., Norway, Spain, Canada, etc.). The CIVPOL office within the UN Department of Peacekeeping Operations (DPKO) would require additional staffing so it could establish training standards and procedures, identify the spectrum of specialized skills required, establish a team to oversee this function, and maintain a data base of stand-by personnel and organizations (See CIVPOL Resources, below). A CIVPOL Stand-by Force would also require rapid access to necessary equipment and supplies. The United Nations should also seek to identify a cadre of judicial experts for standby status and rapid deployment alongside police specialists.

² Sweden and Norway have already taken the initiative to establish a reserve of dedicated civilian police personnel for use in future UN CIVPOL or other multilateral missions. This includes the development of specialized training programs for international policing. Canada and Australia also have established procedures for identifying personnel in advance for CIVPOL missions and providing training for them.

At present, recruitment of U.S. personnel for UN CIVPOL missions or "coalitions of the willing" is essentially ad hoc. It badly needs improvement. A first step would be to establish a cooperative arrangement between ICITAP and major city police chiefs allowing them to identify their best candidates for CIVPOL duties. Additional measures to recruit qualified local and state police personnel should also be developed. Similar action needs to be taken to recruit qualified personnel with backgrounds in penal and judicial reform, working with organizations such as the Bureau of Prisons, state prison systems, and the American Bar Association. Another, parallel measure could be the establishment of a database within DOD which indicates U.S. Reserve and National Guard personnel with civilian police experience or with military experience as MPs or Special Forces. This database would be a step toward establishing a national CIVPOL stand-by force. (The latter would require a program of identifying, recruiting and training standby personnel for UN or U.S. bilateral civilian police programs.) The next step would be to incorporate volunteers from state and local police forces into this database.

(Key Actors: United Nations and Member States)

2. Recruit a Full Spectrum of Skills for the CIVPOL Contingent

Until recently, the typical pattern of recruitment by the UN had been to solicit volunteers from member states using a very basic set of criteria, such as a given number of years experience in policing, fluency in the mission language (normally English), and driving ability. For the most recent cadre of police monitors in Bosnia, however, the UN has also asked contributing nations to provide volunteers who have the specific skills and ranks needed for that operation. This is a major advance, and recruitment of future CIVPOL contingents should continue to be done on the basis of specific personnel needs (e.g., administration of justice and of police academies, penal system reform, internal affairs/inspector general, criminal investigations, organized crime, and field training).

Future recruitment should also specify the seniority or years of service desired for each position to avoid inundating CIVPOL headquarters with an excess of supernumuated officers interested primarily in sinecures and perquisites. An effort should also be made to recruit personnel proficient in the indigenous language of the country where the mission is taking place.

Continuing emphasis should be placed on obtaining credible performance evaluations on CIVPOL personnel during the conduct of each mission. The purpose would be both to identify incompetent personnel, so they can be removed expeditiously, as well as the most qualified, so they can be groomed for potential supervisory positions in future missions.

(Key Actors: United Nations and Member States)

3. Improve CIVPOL Training

Over the past several years there has been progress in developing handbooks and field guides on international human rights standards for CIVPOL and screening/testing of prospective CIVPOL personnel prior to deployment. The performance of CIVPOL personnel could be further enhanced through a standardized program of advanced training. This would cover such universally applicable subjects as the international standards that apply to the full range of public security functions; the general differences among legal systems based on the Napoleonic Code, English Common Law, and the Sharia; and techniques for effective monitoring and mentoring. This would be in addition to country-specific pre-mission training dealing with the local cultural traits, contemporary political realities, and security threats in the mission area. English language training should also be made liberally available to CIVPOL Stand-by volunteers. Such programs would need to be conducted by

(Key Actors: United Nations and Member States contributing to CIVPOL)

B. Prepare Military Forces to Discharge Interim Policing Functions

1. Include MPs and Civil Affairs Police Specialists in Initial Military Contingent

While steps can and should be taken to accelerate CIVPOL mobilization and overall capacity, there will continue to be a high probability that in most cases there will be a considerable lag between the deployment of the two contingents. Additionally, a high threat of violence during the initial period of international intervention may militate against effective CIVPOL operations until the military contingent has been able to stabilize the situation (e.g., by beginning the cantonment process). Military peacekeepers will need to be prepared to perform constabulary functions on an interim basis, therefore, during the earliest stages of such peace missions. Military planners should ensure that adequate Military Police or constabulary units are incorporated in the initial deployment package.

Careful attention must be given to specification of the mission, tasks and Rules of Engagement (ROEs) for these units. ROEs must be crafted with prudence and precision indicating circumstances under which military forces are to act to preserve law and order. Issues to be addressed include responses to violence within the local population, authority to arrest and detain local citizens and their subsequent disposition, and the extent of training assistance that troops are permitted to provide indigenous police and judicial authorities. Other issues are the nature of the relationship with local police forces, the process by which CIVPOL will ultimately assume its responsibilities from the military, and the nature of their subsequent relationship with each other.

In addition, Civil Affairs personnel with backgrounds in planning, logistics, and police operations should be assigned to work with the CIVPOL commissioner, as soon as one has been designated, to facilitate CIVPOL deployment and military support to it. Intelligence and public information assets as well as communications and logistics capabilities of the military contingent are vital for restoring order and should be closely coordinated with CIVPOL functions.

required for each function and likely sources for each; and provide general guidance regarding the relationships that should be developed with local authorities, the military contingent, and other entities contributing to the mission. Other functional issues to be considered would be how former combatants are to be demobilized, disarmed, and reintegrated into civil society; the potential for vigilante activity by police if the judiciary does not function; whether the international community should provide funding for judicial and police salaries until the government can do so adequately; the apparatus; possible placement of experienced international advisors within ministries involved in public security; how the safety of CIVPOL personnel will be preserved; and, if necessary, how evacuation will be accomplished.

While a generic plan can serve as a rough and ready guide, it must be tailored to the circumstances of each contingency. The generic plan would, thus, be the starting point for mission-specific planning for each new operation. The plan must be reviewed and revised as the mission unfolds, conditions change, and more is learned from exposure to reality on the ground. Rigidity is to be avoided. In addition, there should be a dynamic mechanism for capturing lessons learned after each peace operation and revising the generic plan as warranted.

the member states (perhaps using regional training centers) according to standards developed by the UNCIVPOL office.

In addition to basic CIVPOL training programs, there is a need for multilateral training and exercises. This would emulate the considerable number of multilateral military peacekeeping exercises, such as those conducted by NATO and PFP militaries and by US and Latin American militaries. This would substantially improve collective civilian capabilities for police operations, as it has for military forces. In addition, military planners should incorporate CIVPOL activities in their exercise scenarios.

(Key Actors: United Nations and Member States contributing to CIVPOL)

4. Expand CIVPOL Resources

The UN CIVPOL office is authorized one full-time official who is presently supplemented by five specialists seconded from member states at no cost to the UN. This is woefully insufficient given that there are presently some 3,000 CIVPOL personnel in the field under the nominal supervision of this office. Present requirements for mobilizing, training, equipping, and sustaining CIVPOL field operations greatly outstrip current capabilities. Yet, there is pressure from the Non-Aligned Movement to end the practice of secondment, which would deprive the CIVPOL office of its five *pro bono* specialists. This would be highly counterproductive and tantamount to abandonment of concern for this function. Implementation of the recommendations made here, moreover, such as a CIVPOL Stand-by Force, would require additional staffing, computerization, and financial resources.

The UN and member states need to assign a higher priority to supporting CIVPOL activities. The CIVPOL office has been commendably flexible in welcoming various forms of assistance for CIVPOL activities via bilateral government programs and NGOs. To a limited degree, CIVPOL's personnel shortcomings might be ameliorated by greater integration with and support from other elements of DPKO (for equipment, logistics, etc.). However, DPKO also faces severe personnel and budgetary pressures. Thus, an increase in funding for CIVPOL is essential but, given present UN budgetary stringencies, highly unlikely until the US has met the bulk of its arrears.

(Key Actor: United Nations and Member States)

5. Develop a Generic Public Security Plan

An effective CIVPOL operation plan will be much easier to prepare if there is a generic plan to use as a template. Each mission will confront anew various fundamental choices: whether CIVPOL should be armed and have "executive authority" to enforce local law; whether the military and CIVPOL should have common communications and logistics systems and engage in joint patrolling; and how the deployment, enforcement, and institutional gaps will be addressed, especially how civil disturbances and other types of unrest are to be handled. The generic plan should discuss the pros and cons of the basic courses of actions available to future CIVPOL commissioners. To ensure that vital lessons gleaned from previous peace operations are reliably acted upon in the future, UN DPKO should oversee this process. A Public Security Plan should also be an integral component of the US interagency Political-Military planning process.³

³ This plan would identify the functions to be performed by members of the international community (e.g., UN CIVPOL and bilateral governments), address all elements of public security (i.e., judiciary/legal code, police, and corrections system), specify the resources and personnel normally

(Key Actors: Military and CIVPOL Planners at the United Nations and Member States)

2. *Expand the Constabulary Capability and Utilization*

Some military establishments already possess a very significant constabulary capability, that is, units capable of maintaining public order by performing both law enforcement and light infantry operations (e.g., the U.S. Military Police and Special Forces, French Gendarmerie, Spanish Guardia Civil, Chilean Carabineros, Argentine Gendarmes, and Italian Carabinieri). Such units should be explicitly solicited from donor nations when there is a serious prospect that an impending peace operation will have to cope with significant public disorder. In circumstances where the potential for violence is not high, constabulary forces could be considered as a substitute for regular combat forces in peace operations.

Overuse of this remedy could overtax the finite number of member states currently possessing such a "constabulary" capability. Additional training, manpower, and other resources would undoubtedly be required if there were to be significant and recurring missions for such units. Thus, there are inherent limitations in this approach, unless member states would be amenable to expanding their constabulary forces and/or assisting other countries to develop an enhanced capability in response to this need. Owing to sensitivities about the possible impact on civil-military relations, assistance to member states in developing new "constabulary" forces would need to be considered on a case-by-case basis.

(Key Actors: UN; Member States)

3. *Seize the Initiative*

The early phase of an intervention is likely to be fraught with uncertainty about the willingness of the disputants to cooperate with the intervention force; however, this is also the moment of greatest opportunity to set in motion the dynamics necessary to complete the mission successfully. Institutional reformers should capitalize on local war weariness, the state of flux, and the positive shock effect of international intervention to obtain necessary concessions and acceptance of a robust interpretation of the mandate. The emphasis ought to be on securing broad freedom of action for the peace force, but great care should be taken in actually asserting this authority until commanders gain a clearer understanding of local political realities. The military phase of the intervention should not be squandered, since this presence in significant numbers is of limited duration. The longer an external military force remains deployed on the ground, the more it is apt to be perceived as an occupation army.

(Key Actors: UN Security Council; UN DPKO; Member States; the Military Contingent)

The Enforcement Gap

Whereas the deployment gap was about timing, the gap in enforcement is about function or capability. When serious lawlessness breaks out or one of the disputants acts to thwart the peace process, the peace mission can be acutely challenged since the capabilities of the military and police contingents to deal with these situations normally do not overlap. After sufficient CIVPOL members have been deployed, they monitor the indigenous public security apparatus (assuming the latter remains in existence) or assist with the creation of an entirely new police force and judiciary. The "inner shell" of public security for individual crimes and small-scale disturbances, therefore, will usually be provided by some hybrid of the indigenous police and CIVPOL. The military component normally shifts to a "rapid reaction" mode, thus providing the "outer shell" or area security. An enforcement gap is likely to arise when the peace mission is confronted with the need to perform

functions that fall between these inner and outer layers. Typically, these actions relate either to serious challenges to law and order or noncompliance with the peace agreement.

In the first case, international police are incapable of dealing with organized crime, heavily armed gangs, and violent domestic disorder, all of which may flourish in post-conflict situations. This applies whether or not CIVPOL are armed and have arrest authority added to their mandate. The local government is typically characterized by an extremely weak or dysfunctional domestic law enforcement apparatus while society is awash with automatic weapons and unemployed ex-combatants whose job prospects are extremely limited. The latter may be tempted to join the criminal underworld, and international criminal syndicates may seek to exploit any void in law enforcement to insinuate themselves into the fabric of government and society. While the military intervention force may have great firepower, only specialized units, such as MPs, gendarmes, or Special Forces, have the training and resources to engage effectively in law enforcement activities. Such units have not necessarily been included in peace forces.

The second variant of this gap deals with enforcement of the peace agreement, as opposed to local laws. When one or more of the former disputants is unwilling to abide by or implement aspects of their peace accord, the military contingent may be prevailed upon to induce or compel compliance. To the extent this is done, the peace mission runs the risk of losing consent from at least one of the parties, potentially leading to civil disturbances and more violent forms of opposition to their continued presence. In many cases, moreover, the international community will also be attempting to promote the transformation of the police force from an instrument of state repression into a servant of the people. Policing is inherently political, and such a role reversal for the forces of public security can profoundly affect the domestic distribution of power.⁴ This is another area that could precipitate serious local resistance.

Military forces are reluctant to engage in confrontations with civilians because, with the exception of constabulary units, they are generally not highly skilled in the measured use of force, control of riots, negotiating techniques, or de-escalation of conflict. As noted above, CIVPOL is not capable of handling violent challenges, either.

Recommendations for Addressing the Enforcement Gap

A. To address the void in local law enforcement, the most workable option is generally an interim police force assembled, after careful screening, from local government security forces and monitored closely by CIVPOL.

B. When the enforcement gap involves a need to promote compliance with provisions of a peace agreement, the most promising approach is to bring all resources of the peace operation to bear in a coordinated fashion. In particular, this entails integrated and mutually reinforcing operations by the military and CIVPOL contingents. Absent such unity of effort, this gap in public security can become acute and threaten the success of the entire mission.

⁴ Professor David Bailey made this point most persuasively at an NDU workshop devoted to the search for themes and recommendations for this work on 15-16 Sep 1996.

A. Establish an Interim Local Police Force

In most cases, the local police force will not be held in very high public esteem. Thus, in seeking to fill the law enforcement gap, the challenge will be to convert what may have been a predatory and illegitimate force into at least a visible facade of law enforcement (As in Haiti with the Interim Public Security Force). This allows local law to be applied and minimizes confrontations between the peace force and the local population. This will entail removal of notoriously corrupt or sadistic personnel, a retraining program to make those retained on duty aware of their new performance standards, adequate materiel support, supervision by CIVPOL monitors, and, perhaps, joint patrolling with Military Police/constabulary personnel. A mechanism for funding salaries and operational expenses of this interim police force must be anticipated, since revenue collection is apt to have broken down along with other government functions. Even if this were not the case, there may be little utility in relying on a police force that remains financially beholden on those who were responsible for causing the intervention in the first place.

One inherent danger is the inclination for such interim policemen to exploit what they may view as their final opportunity in a police uniform to enrich themselves through extortion or outright banditry. Stifling this will require a competent, adequately staffed, and fully engaged CIVPOL force, often with military/constabulary support. It also means holding out opportunities for individuals in the interim force to become members of a permanent force if their current behavior and past records meet proper standards. Throughout this process a public information campaign should keep the general public and specific elite audiences informed about the mission's intentions and the new standards to expect from the police.

(Key Actors: Special Representative of Secretary General or Equivalent in Charge of the Peace Mission; CIVPOL; Military Contingent Commander; Local Officials)

B. Mutually Reinforcing Military and CIVPOL Operations

1. Establish Unity and Continuity of Effort between CIVPOL and Military Contingents

The most effective way to deal with a gap in enforcement capability is via mutually reinforcing operations between the international military and CIVPOL contingents. Haiti provides the model. There was a single individual in charge of the operation, to whom both the police and military contingent commanders were subordinated (For this to function well, these individuals must be capable of working together as a team). At the operational level, police and military command posts were co-located, and both forces used the same communication network, information/intelligence structures, and logistics support system. At the tactical level, military policemen (i.e., a constabulary capability) were temporarily assigned to duty in local police stations to accompany CIVPOL and local police on patrols.

The "Haiti model" enhances unity of effort in a variety of areas. First, information about potential threats, forthcoming operations, and other mutual concerns can be passed freely between the military and CIVPOL organizations by virtue of a common communications net, a shared command post, and intermingling of personnel in the field. Second, the presence of military forces serves as a deterrent against armed resistance to CIVPOL and their local counterparts, boosting their morale and effectiveness. Third, the use of common communication and logistics networks allows for economies of scale, interoperability, and other efficiencies. Finally, joint planning by the military and CIVPOL should make the response to contingencies much more timely and effective.

Maximizing unity of effort also requires recognition of the need for Civil Affairs personnel to work with CIVPOL, as well as for effective coordination of public information and intelligence capabilities. CIVPOL personnel also serve as a rich and timely source of raw intelligence data, as demonstrated by the Auxiliary Security Force in Somalia and by the IPTF in Bosnia. Assuring a continuous and timely exchange of information should be a high priority. The efficacy of the military's public information campaign in shaping local attitudes toward CIVPOL activities was clearly demonstrated in Haiti. Such capabilities are not found in normal UN CIVPOL deployments, therefore, arrangements for military support in this area should be included in military planning. After the military peacekeeping mission has ended, a limited number of Military Police, Civil Affairs, intelligence, or public information personnel may be required to remain with CIVPOL temporarily to ensure a smooth transition and continuity of effort.

(Key Actors: UN DPKO; Special Representative of Secretary General or Equivalent in Charge of the Peace Mission; CIVPOL and Military Contingent Commanders; Member States Contributing Military or Police Personnel)

2. Sanctions and Inducements

Even the most unified and well-coordinated peace mission will not, by virtue of this factor alone, be able to overcome deficient political will on the part of the one or more of the parties to comply with obligations of their peace agreement. Assuming the international coalition is reasonably unified regarding the desired outcome (or end state), it may be possible to encourage greater compliance through a coordinated package of international sanctions and inducements. One of the dilemmas for those concerned with reforming the instruments of public security is that suspending public security reform programs as a sanction for misconduct might be counterproductive. The lack of effective measures to sanction defiance by Bosnian Serb police and Interior Ministry officials was a chronic liability for IPTF Commissioners.⁵

(Key Actors: UN DPKO; Special Representative of Secretary General (SRSG) or Equivalent in Charge of the Peace Mission; CIVPOL and Military Contingent Commanders; Member States Contributing Military or Police Personnel)

3. Address Public Security Responsibilities in the Mandate

If warranted, authority for CIVPOL and military peacekeepers to reform the police, judiciary/legal code, and penal system should be explicitly articulated in the mandate. This might include authority to certify the fitness of local police and cashier those deemed by the CIVPOL Commissioner to be responsible for gross human rights abuses or serious corruption. The more detailed the mandate and peace agreement are about required reforms, the more leverage CIVPOL will have to press effectively for compliance. The mandate should also address whether the military or CIVPOL contingents will have law enforcement powers and whether CIVPOL should be armed.

Only under rather unusual circumstances would it be warranted to arm the CIVPOL contingent and assign it law enforcement responsibilities. The Haitian case was just such a partial exception. Even in this case, however, an interim local force (the IPSF) retained primary responsibility for law enforcement and arresting suspects, albeit under international scrutiny. Under normal circumstances, law enforcement activity by CIVPOL would run the risk of seriously antagonizing the former

⁵IPTF Deputy Commissioner Robert Wasserman was particularly compelling in his discussion of this point during our 15-16 September 1997 conference.

disputants and potentially the indigenous population, as well. This could easily entangle CIVPOL as a protagonist in local disputes, raising the risk of unacceptable casualties or hostage taking. To avoid such an outcome, the time-honored practice has been to adopt a strictly neutral and unarmed posture. Most of the countries that have a long tradition of contributing to CIVPOL operations prefer this approach.

The Institutional Gap

Whereas the deployment gap was *temporal* and the enforcement gap was *functional* in nature, the institutional gap is a matter of political and institutional *development*. The first two gaps pertain to the relationship between the military and civilian police components of a peace operation. The institutional gap, in contrast, refers to the incapacity of the host government to provide public order, especially when measured against international standards for policing and human rights. Law and order alone will not guarantee sustainable security, since, without justice, the likely result will be oppression. That, in turn, could set the stage for another cycle of institutional decay and collapse. Sustainable public security, therefore, requires that law and order be combined with an adequate measure of justice for all. The institutional gap, therefore, is the difference in development between a public security apparatus that is responsive to the citizenry generally and one that is either dysfunctional or incapable of responding.

For society to function normally, law and order are required. This is the domain of police, judges, and jailers. Rather than becoming a surrogate for malfunctioning institutions of law and order, the international community aspires to foster their progressive development. Domestic police forces, however, are often ill-trained, inadequately equipped, and lacking in discipline. They usually do not command the trust or respect of the citizenry and are often themselves among the more notorious criminal offenders. The judiciary and penal systems are apt to be plagued with similar shortcomings and overwhelmed by the burdens placed upon them. Thus, before local authorities can effectively assume responsibility, a reorganization of the entire public security system (i.e., police, courts/legal code, and prisons) may be necessary. The international community, including CIVPOL, will need to play an integral role in this institution-building or capacity-building process.

Providing the wherewithal to maintain law and order, however, is the least demanding part of the equation. Creating a context that provides a reasonable assurance that the renovated public security system will not revert to old, pernicious habits is much more challenging. This is absolutely crucial since it would be intolerable for the consequence of international intervention merely to be the modernization of an instrument of state repression. Avoiding this outcome will require effective measures to transform the political culture and to develop functioning oversight mechanisms within civil society (e.g., human rights monitoring; a free press capable of exposing abuses; avenues for redress of abuse of political or human rights, such as ombudsmen; and political pluralism sufficient to hold ruling elites accountable for their actions).

Closing the institutional public security gap normally entails removal of unsuitable local personnel from the ranks and formation of a new cadre of police and supervisors. After replacements complete basic police training, they will require mentoring (or on-the-job training) for a considerable period. Until the local police force has been reconstituted and is able to maintain public security autonomously, there will be a continuous need for international assistance. This entails use of international civilian trainers and mentors, including CIVPOL and other forms of international policing assistance. This begins while the military contingent is present, but it ought to continue well after their departure (five years is often used as a rule of thumb for such major institution-building

projects). Even if the local police force eventually proves to be willing and capable, the entire process will ultimately be of little benefit unless the courts, criminal code, and penal system have also undergone a similar transformation. If these potential deficiencies are not adequately addressed, the likely result will be the re-emergence of conditions that precipitated the peace operation in the first place.

Recommendations for Addressing the Institutional Gap

A blueprint for achieving sustainable public security ought to be considered a centerpiece of any peace operation.

A. First, the indigenous public security apparatus (i.e., police, judiciary/legal code, and prisons) must achieve at least a **basic capacity to maintain law and order** by capitalizing on the international assistance available to them. This process should begin as soon as possible during the peace operation.

B. The second and more challenging task is to **imbu[e] these structures of public security with an ethos of public service and impartiality**, and to bolster societal mechanisms of accountability.⁶ Achieving law and order with justice under these circumstances is a long-term process requiring international and indigenous mechanisms for generating and sustaining the requisite political will. This process brings a host of additional players to the forefront. Among the more prominent are specialists in public administration, human rights, electoral processes, and journalism.

A. Develop a Basic Capacity to Maintain Law and Order

1. Strive for Multilateral Cohesion

The UN CIVPOL office has been commendably flexible in blending bilateral assistance programs together with the efforts of CIVPOL operations in the field.⁷ This is constructive and should become more systematic. Additional member states should be encouraged to become active.

Multilateral cohesion requires a process of coordination embracing not merely member states but key IOs and NGOs involved in a peace operation, as well. There needs to be greater integration of DPKO with the Crime Prevention and Criminal Justice Division, the United Nations Development Program (UNDP) and other elements of the UN system, since public safety assistance goes well beyond

⁶This combination of attributes is derived from a presentation by Professor David Bailey to a conference conducted by the Center for Strategic International Studies in October 1997.

⁷This has ranged from US ICITAP taking responsibility for creating and operating police and judicial academies and training programs (e.g., Haiti and Bosnia), to France and Canada providing personnel for police and judicial activities in parallel with CIVPOL, to Norway and Spain offering training to prospective CIVPOL personnel from other countries.

⁸For example, which international entity or entities will provide monitoring, mentoring, and equipment and other assistance to police forces; who will provide near-term training and long-term training, and at what levels and what special skills for the police; and will this cover the foreseeable needs? Similar questions need to be answered for the judiciary (including possible legal code reform) and the penal system.

security assistance programs and NGOs can also make a crucial contribution to development of institutions in civil society that will provide accountability for the police, judiciary, and prisons. (Key Actors: AID, ICTAP, and other Bilateral Assistance Programs; Human Rights Organizations; American Bar Association; Other Relevant NGOs)

B. Instill an Ethos of Public Service and Impartiality

1. Establish Universal Standards for Public Security Activities

International standards for policing have been prepared by the UN Crime Prevention and Criminal Justice Division (UNCPCJD). However, they are general in nature. The IPTF in Bosnia developed Commissioner's Guidance and standards for democratic policing, which specifies the actual conduct expected of policemen in the Federation and the Serb Republic.¹⁰ Building on these initiatives, the UN should endeavor to refine international standards for policing, as well as for the judiciary and penal system. As the Bosnia Commissioner's Guidance has done, emphasis should be on providing specific, observable, and objective measures that can be used by monitors to evaluate the conduct of personnel involved in public security functions.

International standards for public security institutions should be incorporated into any peace agreement that serves as a basis for the peace operation. Authority to resolve conflicts between local law and international standards should be allocated in the mandate to the Special Representative of the Secretary General or equivalent.

Prior to deployment, CIVPOL monitors should receive training on these standards and a Field Training Guide should be developed reflecting them. Country-specific Commissioner's Guidance manuals should also be provided, with input from the UNCPCJD, on judicial and penal matters and legal codes, and from the UN High Commissioner on Human Rights and the Center for Human Rights on human rights matters.

(Key Actors: UN DPKO; UN High Commissioner on Human Rights; UN Crime Prevention and Criminal Justice Division; Member States)

2. Resolve the Demobilization Dilemma

In a post-conflict environment, the rates of violent crime, especially assault with automatic weapons, are apt to be soaring. Government security forces are typically restricted to cantonments or demobilized, creating a void in public order after years of harsh and repressive rule. As public alarm mounts, the retention of elite police units and supervisors who have had the benefit of extensive training and years of experience becomes very appealing. The dilemma arises because these same individuals/specialized units are often guilty of grave human rights abuses and rampant corruption.

Past experience indicates it is generally preferable to disband elite units, vet the personnel, require them to be fully retrained, and permit them back only on an individual basis to prevent them from coalescing as a group and usurping control over the fledgling police force. Similarly, there will be a great temptation to retain experienced police supervisors because the remainder of the police force will be comprised of newly trained rookie police. Once again, extreme care must be exercised,

policing and is a long-term developmental as well as peacekeeping function. A suitable method for achieving this would be to establish a clearinghouse within the United Nations for pre-mission coordination. While this process could never be mandatory or binding, it should at least aim to identify the external actors expected to be involved, their anticipated contributions, and how they will interact/coordinate with each other.⁹ The purpose would be to facilitate the sharing of intentions and coordination of plans among the various actors associated with a pending or ongoing peace mission, (public security would not be the only aspect of peace operations that would benefit from such a mechanism). A centralized database, perhaps building upon the computerized system used for refugee integration in Bosnia by SFOR, UNHCR, and the Office of the High Representative could be developed as the centerpiece of this effort.

Once the mission has begun, the CIVPOL Commissioner and the senior international civilian and military representatives should take the initiative to establish a suitable mechanism for communication and coordination with other actors providing assistance in the realm of public security, including NGOs, IOs, and member states conducting bilateral assistance programs. The Commissioner should also work closely with the military commander and under the unifying direction of the senior civilian authority (e.g., UN SRSG, High Representative, etc.) to coordinate with other actors in the areas of human rights, elections, refugee resettlement and related issues. (Key Actors: UN DPKO; the SRSG; the CIVPOL Contingent; the Military Contingent; Member States; Relevant International Organizations and NGOs)

2. Strengthen Follow-on Assistance Agencies for Public Security

To redress severe public security deficiencies effectively requires a prolonged commitment by the international community. Thorough reformation of the police force alone is normally at least a five-year proposition; the judiciary requires even more time, due to the extensive educational requirements and experience required for most judicial posts. Public attitudes and expectations toward the legal system must also be altered, and support for the rule of law must be engendered within civil society (including human rights organizations and a free press). Provision should be made in the law enforcement plan to establish an indigenous police oversight body to ensure accountability to the public after CIVPOL departs and for civilian assistance to continue after the military phase has concluded. These reforms should begin as soon as possible during the peacekeeping phase and continue as a foundation for peace building. Once this has begun to happen and the peace process has become irreversible, there is likely to be no further need for the presence of a military intervention force.

One of the areas requiring particular development is follow-on assistance after the departure of military forces. Resources and programs need to be marshaled to sustain and consolidate advances made during the military phase of the peace operation. In the US, the Agency for International Development (AID) and ICTAP are crucial for this purpose, yet their funding is far from robust. ICTAP is the only US government agency with an exclusive focus on assistance to public security organizations outside the U.S. In spite of its pivotal role ICTAP is only a temporary organization within the Department of Justice, without permanently funded staff or programs. To protect U.S. interests from criminal activity abroad, it is crucial that this be corrected. Other bilateral public

⁹The US government recently recognized the need to prepare an inter-agency plan with the adoption of Presidential Decision Directive 56. Other governments have already instituted similar planning processes. Clearly the US Government must take seriously its recently self-imposed requirement to prepare a comprehensive inter-agency plan.

¹⁰ Commissioner's Guidance for Democratic Policing in the Federation of Bosnia-Herzegovina, Part 1 (Sarajevo: UN Mission in Bosnia-Herzegovina, May 1996). The UNCPCJD also developed a Guideline for the Conduct of Public Justice in Cambodia (even though its utility there was rather limited).

because whoever is allowed to assign these individuals to senior posts will be in a strong position to monopolize power over the long haul. Prospects for law enforcement that is both proficient and endowed with an ethos of service to the public hinges on fundamentally altering the police culture. Retaining specialized units or cadres of previous supervisory personnel (especially mid-level supervisors) could constitute an insurmountable barrier to essential attitudinal change.

Another dimension of the demobilization dilemma is the concern that former security personnel may be unable to find gainful employment and will therefore turn to criminal activity to support themselves. Given their training, discipline, and knowledge of the criminal underworld, this is a realistic possibility. Demobilization or retraining programs are an obvious answer, but, as in Haiti, there may be considerable political resistance to providing special assistance to the same nefarious group that had formerly victimized their fellow citizens.

(Key Actors: Special Representative of Secretary General or Equivalent in Charge of the Peace Mission; CIVPOL; Commander of Military Contingent; Local Government Officials; Donor Nations Funding Retraining Programs; ICTAP and Equivalent Government Agencies)

3. *Strengthen Civil Society*

In the long run, the objective of sustainable public security will only be assured when impunity is no longer the norm, and justice is perceived to be available to all, even if not on a totally equal footing. Achieving this aim entails mobilization and strengthening of civil society. This is the only way that institutions of public security will ultimately be held accountable for their conduct. Specific functions that are conducive to this outcome are a free press, open elections, availability of pro bono defense counsels for the indigent and minorities, domestic human rights monitoring organizations with international sponsorship, an ombudsman or similar mechanism to promote transparency of public security institutions, and public access to police via hot line (911 equivalent). The exact form that these take must be carefully crafted so as to be compatible with local culture and tradition.

This process involves arousing a sense of efficacy in the average citizen and a conviction that public security ought to be a public good not a private privilege. The political culture must be altered, therefore, so repressive behavior by the police is not reinforced because that is what the populace expects. Public education is a crucial component of the process of altering expectations. In this regard, the public information resources of the military intervention force, as well as civilian agencies, ought to be put to maximum use. There should be planning for coordinated actions by both military and civilian elements of the peace mission to strengthen civil society as well as promote good communication with local authorities. It will also be vitally important to nurture public support when sanctions are required to promote needed reform of the police, penal system, or judiciary. At the end of the day, civil society is the constituency that stands to gain if justice and order become the norm.

(Key Actors: UNDP; UN High Commissioner on Human Rights; UN Crime Prevention and Criminal Justice Division; CIVPOL; Member States, Relevant NGOs)

4. *Promote De Facto Separation of Power between Executive and Judiciary*

Injustice, impunity, and exploitation of the police and legal system to repress political opponents are often major contributing factors to the governmental meltdown that causes an international intervention. If the judicial process has been co-opted by the executive branch, its primary function will become the perpetuation in office of the current governing elite. To alter this fundamentally, so justice ultimately prevails and the cycle of repression and governmental decay does not repeat itself, the power of the executive over the judiciary should be checked by other forces, such as the

legislative branch and civil society. This would likely include limiting or balancing executive prerogatives in such areas as judicial appointments, budgetary allocations, and physical security. (Key Actors: Local Government; SRSG; Human Rights Organizations).

HARMONIZING THE MILITARY WITH OTHER AGENCIES AND LOCAL POPULATIONS IN COMPLEX EMERGENCIES

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Discussion Paper
for

Conference On
Civil-Military Relations in Complex Humanitarian Crises
"Forging Peace"

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I. Introduction

In a recent report, "Transforming Defense: National Security in the 21st Century," submitted to the Secretary of Defense and Congress, the National Defense Panel proposed a strategy that would allow the U.S. military to transform itself over time, allow for experimentation and innovation, while minimizing risk to the major strategies required to cope with the post-Cold War era. The challenge of retooling both the meaning of national security and the force structure necessary to implement it is one that should shape the debate on future security requirements.

There is now enough experience in the post-Cold War world to safely say that conflict is being manifested in significantly new ways. Intra-state wars are increasingly the face of modern conflict. These internal conflicts pitting different regions, ethnic groups, and religions against each other will be with us for the foreseeable future. They pose significant new challenges to military organizations, across the full organizational and operational spectrums. This is particularly true for militaries, such as those of the United States', which must remain focused and ready to fight classic inter-state wars.

Operations in these intra-state conflicts, whether called peacekeeping, peace operations or complex emergencies have all been multi-organizational and multi-cultural. International organizations as well as non-governmental organizations carry out their work alongside the military. And they are playing an ever increasing role as conflict managers.

Without question military forces will continue to become involved in peace operations and complex emergencies. But a division of labor seems to be emerging. The military component of a peace operation authorized under Chapter VI of the UN Charter will, in most cases, continue to be established and led directly by the United Nations. Most likely U.S. military participation in chapter VI operations will be limited to provision of enabling resources such as specific subject matter expertise, materiel and possibly transportation assets. Participation by U.S. ground combat forces in strictly peacekeeping operations will be rare. The U.S. military is more likely to become involved in the "harder" chapter VII authorized peace enforcement operations where a robust and capable military component is required. If the U.S. commits ground troops then it is probable that the multi-national military coalition will be organized and led by the U.S. military.

Peace operations and complex emergencies can be described as non-linear, dynamic. They require continuous exchange of information with multiple agencies and activities and the environments at large. It is not simply the number of components and multiplicity of players that makes these operations complex. It is the manner in which these interact. They interact freely and in often unanticipated ways. Such an operational environment creates difficulty for the military whose systems and operational methods tend to focus on clearly identifiable opponents. In peace operations an important factor for overall mission accomplishment is the military's readiness to effectively coordinate its functions and resources with non-military organizations and groups such as OFDA, ODA and ECHO, UN agencies, other international organizations, NGOs, and host nation activities and representatives. A primary goal of any institutional and organizational changes in the approach to peace operations and complex emergencies should be to achieve unity of effort among the diverse participants. Even though these may often have divergent strategic goals and plans, there are a number of initiatives which, if adopted, could lead to improved cooperation.

The UN, a number of other Member States to include the U.S. military, have undertaken significant efforts to review and learn from previous peace operations in hopes that "lessons learned" will enhance performance in future operations. There is one central theme that emerges: the need for improved coordination and cooperation between what has become known as the complex emergency "intervention triad" consisting of the military component, the political/diplomatic element, and the humanitarian relief and development

organizations.

This paper will recommend several specific changes in policy and procedure that would refine the U.S. military's capabilities to operate in complex humanitarian emergencies. The presentation will include the following: 1) a brief discussion of recent initiatives at the United Nations to improve operational effectiveness in peace operations and complex emergencies, 2) initiatives within the U.S. military regarding peace operations, 3) further actions that would improve multi-agency coordination and cooperation, and 4) recommendations for systemic adjustments in the Army's Doctrine, Organization, Training, Leader Development and Materiel (DOTLM) to enhance operations in complex emergencies.

II. Recent Initiatives at the United Nations/DPKO

- a. The United Nations and most force contributing countries are reviewing and evaluating recent experiences and making necessary adjustments for operations in future complex emergency operations.
- b. However, on the part of the United Nations, one senses disillusionment if not an outright crisis of confidence in peacekeeping. There is the realization that the early post-Cold War euphoria exaggerated the range of possibilities for expanding the scope of traditional United Nations inter-state consensual peacekeeping operations for use in complex emergencies. In short, the limits of the United Nations capacity in peacekeeping have been revealed in recent years and there is currently in the UN what some have termed, "peacekeeping fatigue."
- c. This is reflected by the fact that the level of UN led peacekeeping operations has declined substantially over the past three years. Peacekeeping costs have also declined. From a peak of 3.6 billion dollars in the years 1994-1995 costs have been reduced to 1.2 billion in 1997. Perhaps Bernard Miyet, the Under-Secretary General for Peacekeeping described the situation best when he metaphorically stated that "the building of peacekeeping may stand, but it is heavily mortgaged and its foundations are fragile."
- d. Given the above, it is nevertheless also true that most United Nations Member Nations continue to insist that peacekeeping be retained as an important tool with which the UN can address issues of world peace and security. The consensus is also that the "peacekeeping tool" needs to be improved. Because if it is not improved, many members fear that UN peacekeeping will relapse into the pattern of pre-Cold War era and that interventions in complex emergencies will become the preserve of a few economically powerful countries; i.e., franchised to the major powers.
- e. In response to this, over the past few years significant initiatives have been launched within the UN to enhance the operational effectiveness of its peacekeeping efforts. The principal ones are:

-A much improved planning capability and greater operational focus brought about by increased professional military staffing within the Department of Peacekeeping Operations. (However, this may soon be in jeopardy. Since eighty percent of these officers are not UN officials but are seconded from developed nations at no cost to the UN, the less developed nations have expressed their concern that DPKO has been "captured" by the developed countries and that this has undermined the impartiality and international character of the United Nations. The Secretary General has responded with a reform measure that stipulates "gratis personnel" in peacekeeping operations will be phased out. Any rapid reduction of gratis personnel without replacement by competent UN officials would seriously undermine the UN's capacity to plan and conduct the complex emergency operations of the 1990's.)

-More meaningful cooperation on peacekeeping with regional arrangements and

organizations. This has been one of the most promising directions of further work. For geographical, historical and cultural reasons regional organizations are uniquely placed to develop focused solutions to local conflicts. They can also offer the UN a comparative advantage with respect to early-warning, fine tuning intervention strategies and in post-conflict rehabilitation. The African Crisis Response Initiative (ACRI) launched by the United States in 1996 is one of the most promising. The goal is to have an estimated force size of eight-to-ten battalions that could deploy rapidly as a stand-alone force, as part of a larger subregional or multinational force, or as part of a UN peacekeeping operation. To date, five African nations have received training and equipment support to sharpen their peacekeeping capabilities.

-Significant measures to improve the UN's capacity to react swiftly and efficiently to emergency situations.

-Continuing the development of stand-by arrangements with Member States (68 as of February 1998) to develop a precise understanding of the forces and other capabilities a Member State will have ready and available when called upon by the UN. This includes development of a detailed data base on national commitments along with volumetric data which in theory will permit UN planners to pre-calculate transportation requirements.

-Since UNHCR's operations are almost entirely donor driven they are frequently subject to "pipeline" delays, especially in fast-breaking humanitarian crises. To address this problem in eastern Zaire during the Rwanda refugee crisis in July 1994 UNHCR developed a concept of "service packages." Donor countries were asked to provide specific categories of supplies or capabilities (i.e., "packages") such as water purification and distribution equipment and airhead management at Entebbe and Kigali to manage the receipt and forward movement of relief supplies arriving in the crisis area. Some problems were experienced when some donor governments did not live up to their "service package" commitments or did not provide them in a timely manner. Nevertheless, the concept has merits and should continue to be developed and refined as a potentially cost effective measure for securing and allocating relief resources by NGOs, donor governments and military contingents.

-Progress in establishing the Multinational Stand-by Forces High Readiness Brigade (SHIRBRIG). When operational this will provide a rapid deployment capability for the UN in peacekeeping operations mandated by the UN Security Council under Chapter VI, to include missions where humanitarian aid is the main task. The response time will be 15-30 days and the deployment limited to a maximum of six months. After this time the mission will be terminated or the brigade will be replaced by other forces. (Again though, some Member States have expressed concern that this must not become a "select club" with special privileges. Some fear the existence of this brigade could undermine the ability of other Member States, especially traditional troop contributing countries, to participate in UN peacekeeping operations.)

-Progress in establishing a Rapidly Deployable Mission Headquarters (RDMHQ) to enable the UN to quickly deploy, a cohesive team of essential civilian and military personnel to a mission area.

-Continuing efforts to strengthen the Civilian Police Unit within DPKO to include an initiative to establish Civilian Police Selection Assistance Teams. There is recognition of the need to improve the understanding of what the role of civilian police personnel is in the wider context of peacekeeping operations. A move towards more standardized international training. Development of core training modules and courses that cover the basic tasks that UN civilian police must fulfill. A stricter application of the civilian police selection principles. And, there is even some discussion of establishing a small rapidly deployable civil police headquarters.

-Increased activity of DPKO's Training Unit. Training remains the responsibility of Member States but there is now recognition that the UN has a role in providing guidance and assisting such training, particularly for developing nations.

-New system for reimbursement of contingent owned equipment.

-Development of a Field Asset Control System and a system for the global direct provisioning of spare parts to field missions.

-Centralized medical support management system to control and coordinate medical support to all missions.

-Lessons Learned Unit to enhance the organizations institutional memory.

f. Significant reform efforts are also underway to improve interagency coordination and cooperation. This comes with the recognition that steps had to be taken to abandon the fragmented approach with which the international community tends to work. These on-going initiatives both at UN headquarters and in the field should lead to improved operational performance and lay the groundwork for a more integrated effort that meets the needs of the affected populations as well as fulfilling the missions mandate. These include political, humanitarian and military dimensions:

-Establishing a senior level Policy Coordination Group at UN headquarters. Established under the chairmanship of the Secretary General this is composed of the heads of the Departments and Offices of the Secretariat as well as the heads of UNDP, UNICEF, and UNFPA. Executive committees have also been set up in the four key substantive areas of UN activity: peace and security, economic and social affairs, development operations, and humanitarian affairs.

-Transition and post-conflict reconstruction. The Secretary General made the decision to further strengthen the UNDP Resident Coordinator by designating him as his representative for development cooperation and leader of the "United Nations Country Team." The integration of the field offices of the various UN programs into one UN house to integrate the activities at the mission and country levels strongly symbolizes this new unitary approach.

-An Office for the Coordination of Humanitarian Affairs has been established. It replaces the Department of Humanitarian Affairs and is specifically charged with dealing more effectively with complex humanitarian emergencies by being responsible for coordinating the humanitarian emergency response.

-Transformation of the Department of Public Information into an Office for Communications and Media Services. Emphasis will be on the delivery of communications and outreach to Member States, the media and non-governmental organizations. The United Nations Information Centers in the various countries will be fully integrated into the UNDP Resident Coordinators Office. This creates the possibility for providing much more responsive and focused public information support to operations in complex emergencies.

III. Initiatives in the United States Military

a. The purpose of the U.S. armed forces is to fight and win the nations wars. Consequently it is understandable that the U.S. military continues to be frustrated about the amount of time and resources it is

devoting to peace operations while having to maintain readiness for major regional conflicts, downsizing to a significantly smaller force structure, and operating within continually reduced budgets. Nevertheless the U.S. military has tried to keep pace with the rigorous and increasing demands posed by participation in recent peace operations.

b. The Army's professional military education system has added instruction in peace operations to the curriculums of its various educational and training institutions. There is however no integrated educational strategy that identifies what should be taught regarding peace operations in either the Non-commissioned Officer Development Program or the Officer Development Program.

c. A considerable amount of doctrinal material on peace operations at the operational level has been written and published by the U.S. military, mostly in 1994 and 1995. Arguably the most useful of these documents have been the Army's FM 100-23, *Peace Operations*, its companion manual, FM 100-23-1, *Humanitarian Assistance*, and the Joint Warfighting Center's *Joint Task Force Commander's Handbook for Peace Operations*. But relatively little has been done to provide standardized force-wide training manuals that establish specific tactics, techniques and procedures for training units and soldiers on peace operations missions and the associated tasks.

d. The amount of training accomplished in military units for peace operations varies greatly. It is based on the commander's needs assessment. The Army's highly regarded peace operations training exercises conducted at its Joint Readiness Training Center in 1994 seem to have stopped. These training exercises had placed military units in situations requiring them to accomplish military missions in the context of a peace operation while working in cooperation with UN agencies, NGOs, local contesting factions and indigenous population groups. Members of the U.S. Army's 25th Infantry Division who deployed to Haiti were unanimous in praising the peace operations training exercise that they completed at the Joint Readiness Training Center prior to their deployment. They credited this with accurately replicating many of the challenges they later faced while conducting operations in Haiti.

e. Most peace operations training in units now occurs only once a unit has been alerted for participation in a peace operation. These pre-deployment training exercises often include exchanges and discussions as well as staff exercises with representatives from the United Nations, other international organizations as well as non-governmental organizations. While unit pre-deployment training is generally executed in an excellent manner as witnessed by the pre-deployment training conducted by the U.S. Army's 1st Armored Division before going into Bosnia, there is concern about whether this sudden "one-shot" unit training approach is sufficient to instill a solid foundation in soldiers and small unit leaders about the significant differences between peace operations and warfighting.

f. Probably the single most productive military initiative in terms of fostering improved multi-agency coordination in peace operations has been the creation of Civil Military Operations Centers (CMOC) as adjuncts to the traditional military command and control structures. The requirement for a mechanism and facility where representatives from the non-governmental organizations and others could meet with the military to coordinate activities was first recognized during Operation Provide Comfort in northern Iraq. Since then all U.S. military peace operations have fielded some form of a CMOC whose broadly defined task is to "perform liaison and coordination between the military, NGOs, other agencies and local authorities." Information about CMOCs is contained in most U.S. Army and Joint doctrinal publications that deal with peace operations. But while military commanders must retain the necessary flexibility to adapt their command and control arrangements to conditions operative on the ground, a more uniform or standardized concept of the CMOC, its operations, organization and equipment should be established.

IV Further Actions

The following suggest further actions that could improve multi-agency coordination and cooperation. Not all are universally applicable but should be deliberately addressed.

a. Conduct periodic staff exercises at U.S. military unified command headquarters to bring together representatives from the intervention triad within the region. This should include national military representation from the region, representatives from UN organizations and activities as well as other international organizations and major non-governmental organizations active in the region.

b. Assign a Humanitarian Advisor to the staff of each U.S. unified command which may be tasked to establish a Joint Task Force for peace operations or humanitarian assistance operations. The Humanitarian Advisor would provide continuous advice and planning assistance to the commander and his staff in developing contingency plans and conducting staff exercises and training. Ideally this individual would be seconded to the military from USAID and/or OFDA. In his "advise" role he would act much like the Political Advisor (POLAD) currently assigned to each unified command. The Humanitarian Advisors responsibilities should be expanded to include a substantive role in staff training exercises for peace operations and complex emergencies.

c. Direct that pre-deployment survey teams dispatched to a crisis area include representation from all substantive components scheduled to participate in the operation, to include one or more of the major NGOs or an NGO umbrella organization such as the Washington, DC based NGO advocate InterAction. If at all possible, personnel assigned to the survey team should also be slated to become members of the operational mission staff of the organization they represent in the mission area. This will help to build a cooperative effort and leadership team before the operation begins which will hopefully continue through the course of the operation in the field. The survey team should also be required to assist in preparing the missions operational concept. This would enhance the collaborative planning required for successful cooperative execution.

d. Following approval of the mission mandate (or military warning/execute order) insure that this is translated into a coordinated operational plan that develops specific activities for each component. The operational plan must include common goals and objectives to provide all the components a coherent framework for their activities. The intent is to assure unity of effort at the point of execution.

e. Quickly develop the structure for civil-military coordination within a mission area. Establish the role, function, and composition of the various coordination mechanisms. This includes establishing mechanisms for humanitarian assistance policy making at mission headquarters such as a Humanitarian Assistance Coordinating Committee as well as On-Site-Operations Coordinating Center(s) (OSOCC), and/or Joint Civil-Military Operations Center(s) (JCMOC) responsible for coordinating the day-to-day activities in the field as well as providing a forum for information exchange.

f. Establish a single individual (possibly the UNDP Resident Coordinator as Deputy SRSG) charged with responsibility for coordinating all humanitarian relief efforts within the mission area. He chairs the policy level coordinating group for humanitarian assistance at mission headquarters level. This should insure close linkage of relief efforts to long term development.

g. Establish an NGO Advocate Office at mission headquarters charged to specifically represent the interests of NGOs.

h. Establish and publish a system for NGO accreditation to the mission. Outline the privileges and responsibilities concomitant with accreditation to include adhering to an NGO Code of Conduct developed

specifically for the mission.

i. Establish an Office of Ombudsman within the mission to serve as the focal point to deal with grievances of the local population against the mission or mission personnel.

j. Conduct a pre-deployment training and "team-building" exercise for senior staff members of all components as well as selected NGOs. This proved to be a much praised innovation in the preparation phase for the UN Mission in Haiti (UNMIH).

k. Establish combined civil-military cells whenever possible to deal with functional areas in which both play a major role. Examples would be a combined information analysis cell for political and military analysis at mission headquarters level; or, a combined logistics cell such as was established by U.S. military forces and UNHCR in Entebbe, Uganda for prioritization and movement of humanitarian relief supplies into the Goma area and Rwanda in 1994.

l. Conduct joint periodic reviews of military force protection measures to insure these are based on a valid risk assessment. Periodically evaluate the impact that existing military force protection measures are having on the military's capability to support civil components and their activities.

m. Synchronize the various agencies' reporting time lines to insure data consistency among the interagency working groups.

V. Institutional Adjustments

The following points suggest possible U.S. military institutional adjustments to enhance peace operations capabilities and thereby improve multi-agency coordination and cooperation.

a. Changes or initiatives to enhance existing military capabilities for peace operations or that introduce new capabilities into U.S. military forces are best introduced through the systems processes that shape military forces; i.e., starting with the intellectual construct that then leads into Doctrine, Organization, Training, Leader Development, Materiel, and Soldiers (DOTLMS). The selected initiatives discussed below are some that could help the military to become better prepared for participation in peace operations and establish a basis for improved multi-agency cooperation. A key initiative is to develop a clearer concept of the military's role in establishing a safe and secure environment which is so critical for effective work of the civil components in a complex emergency.

b. Doctrine. A full review of current peace operations doctrine should be undertaken to ensure it is up to date and that there is consistency among Army, Joint, NATO publications as well as other allied and United Nations documents. In updating doctrine:

-Address the "definitional problem." "Peacekeeping" is a broad, generic and imprecise term. Because of this the U.S. military has adopted and uses the term "Peace Operations" to cover a range of operations from military support to diplomacy, to traditional consensual peacekeeping and finally peace enforcement. The definitional problem stems from a semantic dilemma: no single term currently in use can adequately capture the broad and ambiguous nature of all these type operations. However, use of any term with the word "peace" conveys the misleading impression that there is no risk or danger in such operations. Sometimes, in fact, peace operations put those involved in hostile situations resembling war. Perhaps "Complex Emergencies" should replace the term peace operations in military doctrine.

-Ensure doctrine stresses the full integration of civilian organizations, i.e., non-DOD, UN, IOs and NGOs in planning and conducting peace operations. Through doctrine institutionalize a coordination mind set that brings these organizations together early in the planning process and throughout execution.

-Clarify the relationships with humanitarian organizations by ensuring that the functions and responsibilities of CIMIC structures and their relationship to the standard military command and control structures are clearly identified to relevant humanitarian organizations.

-Further develop the concepts of Humanitarian Assistance Coordinating Committees and Civil Military Operations Centers. Develop standard CMOC organizational structures and outline internal as well as external relationships. Validate equipment requirements for CMOC operations.

-Study and develop a doctrinal concept for establishing protected humanitarian zones designed to provide safety and the basics of life for large refugee or internally displaced populations in imminent danger during or in the aftermath of a conflict.

-Study and develop doctrinal concepts for other special operations which the military may be required to conduct to establish a safe and secure environment until indigenous forces or international police forces can assume that task.

- Forceful Disarmament
- Weapons Control regimes
- Separating combatants from refugees

-Clearly separate the concept of "mission creep" from mission evolution. Recognize that mission changes are appropriate when accomplished and when approved by higher authority.

c. Organization. It is recognized that the U.S. military should not structure or design units for peace operations. Most are non-traditional structures. However, some initiatives could be taken to study the most efficient and effective ways to draw assets from existing organizations and units to stand-up a peace operations team or task force. For example, if only a few discreet items of equipment with operators are required to support an operation and not whole "engineer companies" or "truck companies," there should be an established and practiced mechanism to deploy these with an appropriate command and control apparatus.

d. Training. The military's strategy for peace operations training currently can best be described as "train for war and adapt for peace operations." Despite the glowing reports from the field about the adaptability and performance of soldiers, most experienced leaders agree that peace operations require more than just combat ready troops.

-At the tactical level, develop force-wide standardized peace operations Mission Training Plans (MTPs) with associated Task, Conditions, and Standard for peace operations tasks. Develop adaptive pre-deployment training strategies that can apply to any unit alerted for deployment to a peace operation.

-Conduct regular multi-national and multi-organizational peace operations exercises at the Joint Readiness Training Center in the United States and the Combat Maneuver Training Center in Europe. Such exercises are invaluable in furthering multi-agency understanding, cooperation and in helping to test and validate operational concepts and doctrine.

-Conduct recurring staff exercises at unified command level that bring together the military, UN, and NGOs in scripted exercises that will develop peace operations planning skills, develop mutual

understanding and stress the need for multi-agency cooperation and coordination.

-Establish peace operations focused military-civilian exchange programs with other governmental, UN, and non-governmental organizations.

e. Leader Development. Use the military's progressive and sequential institutional education programs that prepare officers and non-commissioned officers to function in positions of increasing responsibility as they advance in their careers to:

-Emphasize the importance and understanding of multi-national peace operations.

-Develop a comprehensive and coordinated program that provides appropriate instruction in peace operations at each level of the Non-Commissioned Officer Development Program (from Primary Leader Development Course to the Sergeant's Major Academy) and the Officer Development program (pre-commissioning to War College level).

-Develop a program for officer and mid-level executive exchange programs with such organizations as UNHCR, World Food Program as well as some of the larger international NGOs such as World Vision and Doctors Without Borders.

f. Materiel. This is an area in which much can be done to enhance the military's posture for peace operations. Such as:

-Identifying and establishing special communications requirements for peace operations. As a minimum, special requirements for CMOC communications with civilian agencies should be documented and provided.

-Requirement for non-military type vehicles, again particularly for CMOC operations and for survey teams.

-Variety of non-lethal armaments and weapons that would assist in establishing and maintaining security without having to resort to deadly force.

-Equipment to assist in humanitarian demining: detection, marking and destruction of mines.

g. Soldiers. This is probably where the least amount of direct work is needed. Soldiers performance is largely determined by the quality of training they receive and the quality and the tactical and technical competence of their leaders.

VI. Conclusion

In conclusion, the National Defense Panel has it right: the national security structures of the United States need to be transformed. While notable progress has been made since 1991 in achieving multi-agency cooperation during complex emergencies, further efforts are needed if we are to reach the objective of "harmonization" and a unity of effort. For the management of complex emergencies, PDD 56 is a good start toward transformation. To be responsive and coherent, its next edition must address the C4ISR architecture that needs to be in place now.

CLEARING THE BUREAUCRATIC MINEFIELDS: THE CIMIC/USAID-DART RELATIONSHIP IN BOSNIA

**Colonel Michael E. Hess, U.S. Army Reserve
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**Discussion Paper
for**

**Conference On
Civil-Military Relations in Complex Humanitarian Crises
"Forging Peace"**

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Summary

U.S. IFOR civil-military cooperation (CIMIC¹) with a U. S. Agency for International Development \$30 million program to promote refugee returns and housing reconstruction in Bosnia yielded mutual efficiencies, boosted program impact and reinforced IFOR's exit strategy in ways which provided valuable lessons for both.

USAID's Program: Background

The attached report describes the background of a U.S. Government-financed reconstruction program for Bosnia which was carried out during 1996, the first year following the Dayton accords. The \$30-million project recommended by the report was, in fact, approved and was one of the international community's earliest durable successes. It was based on an assessment initiated by USAID Administrator Brian Atwood. The project was financed by USAID and managed by USAID's Disaster Assistance Response Team (DART) in Bosnia. It was implemented through grants to eight international NGOs, including the International Rescue Committee, Catholic Relief Services, World Vision and Mercy Corps International, which in turn worked with small private Bosnian contractors.

The program's objectives were to accelerate the return of displaced families to homes which they owned before the war, to jump-start reconstruction of the most damaged villages, and thus to empty out the apartments and homes of others in the larger towns which the displaced had been occupying during the war. The task was to reconstruct a core group of 50 houses in each of Bosnia's 50 most destroyed and abandoned villages (many in the U. S. IFOR/Tuzla region) and to repair some minimal infrastructure to make them livable. Estimates place the number of short-term construction jobs generated at about 8,000, which were filled mainly by recently demobilized combatants, with considerable benefits to the stability of this conflictive region. Once back in their home villages, most of the returnee families were able to reactivate their previous rural livelihoods.

The attached report describes a geographic-based bottom-up field assessment of conditions on the ground in small communities in Bosnia. It identifies the populations that the assessment team believed could return home in 1996, and identifies the impediments to cross-ethnic (minority) returns.

For future planning, this initial survey experience offers us:

- (a) a model of effective assessment techniques which include extensive consultation in the field with the proposed beneficiaries of reconstruction efforts themselves. A realistic appraisal of the prospects for early refugee returns in the first year after Dayton -- which was vindicated by events -- emerged from a process in which the grass roots defined the parameters and provided a firmly-grounded appraisal of "the possible."

¹ CIMIC is a NATO term for civil-military operations.

- (b) a realistic approach to appraising the limits of international intervention aimed at reconciling conflicting ethnic groups so soon after the cessation of hostilities, as well as a strategy to achieve some modest but attainable interim building blocks conducive to more positive outcomes at a later stage.

The assessment was conducted with extensive logistical support from the USAID/DART team which, since the outset of the conflict, had been on the ground providing emergency humanitarian aid to disaster victims, mainly through a network of non-governmental organizations.

This experience demonstrated that a civilian U. S. government agency was able to carry out an effective reconstruction needs assessment which obviated the need for the military to carry out its own. In addition, this specific assessment model includes elements which could be used by the military for refining its own post-conflict reconstruction assessment techniques.

USAID - U. S. IFOR Linkages

A useful and productive dynamic quite relevant to this conference surfaced spontaneously during implementation of the reconstruction project. It began during the initial field assessment. The USAID DART/Bosnia team had been in close contact with a pro-active U.S. IFOR officer responsible for liaison between CIMIC and the NGOs -- a position set up by field command.

The CIMIC function and staff had been designed at the earliest stage of the IFOR planning cycle because of the importance of the civil-military aspects of the mission. It was staffed primarily by U. S. Army reserve personnel, some of whom had served in similar functions during "Operation Provide Comfort" in northern Iraq. Working together in an informal, collegial way during the reconstruction assessment and project planning phase, the CIMIC and DART teams discovered several modest but critical ways in which they could cooperate together during implementation, with a number of mutual efficiencies:

- IFOR command used surplus capability to transport construction materials from commercial sources to work sites, resulting in considerable cost savings and thereby enabling the NGO involved to repair more units--and facilitate the return of more families.
- IFOR command alerted NGOs to the relative levels of land mine dangers in various communities, allowing the NGOs to quickly focus on the relatively more feasible reconstruction sites. Given the brief spring/summer construction window, the time saved through IFOR's cooperation was vital to the timely completion of the project.
- In a limited number of cases, IFOR, in conjunction with Bosnian military forces, prioritized the demining of specific facilities related to the reconstruction effort.

Cooperation between the IFOR command and the NGOs did not strain IFOR resources. The positive results achieved through the accelerated return of displaced families to their homes in destroyed and abandoned villages, and the thousands of jobs created for demobilized combatants, made IFOR's mission safer and supported the concept of an exit strategy. The CIMIC/NGO cooperation on the USAID reconstruction program encouraged IFOR command to become involved in other reconstruction projects.

Positive cooperation, even on modest undertakings, was a vehicle for communication and mutual understanding between these military and civilian elements. In addition to its positive material outcomes, it may also have avoided frictions which sometimes occur in the absence of this type of dynamic.

The CIMIC-DART Linkage

The USAID DART team had been providing humanitarian assistance in Bosnia throughout the conflict. It had a broad range of contacts and experience which the U. S. IFOR CIMIC staff recognized as important to the accomplishment of its mission. Therefore, upon arrival in Sarajevo, the CIMIC operations officer made immediate contact with the DART leader. This led to useful exchanges of information, including needs in the field identified by both organizations, and a mutual understanding of the resources and capabilities of each. When the USAID reconstruction assessment team reached Sarajevo, the DART staff facilitated contacts with CIMIC which led to the advance planning and field cooperation described earlier.

Lessons Learned

- CIMIC staff should perform coordination between the U. S. military (at the unified command and JTF levels) and NGOs, OGAs and IOs beginning during the initial planning stage of such operations. CIMIC staff should reach out to civilian agencies to identify potential areas of cooperation. Requests from civilian organizations should be channeled by CIMIC staff through the command structure, to insure that such activities do not impede mission capability.
- Easy establishment of coordination between CIMIC and DART was facilitated because CIMIC officers had received pre-deployment training in the purpose and functions of the DART teams. This training had emphasized the importance of implementation of reconstruction in the civilian sector. Thus, coordination in the field between the two proceeded smoothly.
- Both CIMIC and DART teams provide situation reports to their headquarters in Washington concerning developments in the civilian sector. The emphasis and priorities of such reports varies according to the mission and focus of each respective organization. Frequent exchanges of information between the CIMIC and DART staff in Bosnia without compromising the independence of either--enhanced the accuracy, completeness and timeliness of reports produced by both.
- Future planning and doctrine could usefully include a provision which permits and encourages local commanders to provide this type of modest assistance or to share certain resources (like surplus construction material) in other ways with positive initiatives which are well coordinated with reliable civilian reconstruction agencies. Such planning should actively encourage USAID and NGOs to approach CIMIC liaison officers with modest support proposals of this type.
- Cooperation between IFOR and the USAID/DART program was initially proposed by CIMIC personnel shortly after IFOR's arrival in Bosnia and before the mission had a chance to settle in and become familiar with the new environment. At that early stage, some senior officers were

concerned both with troop safety and with the appearance of "mission creep" evolving into "nation-building" before they had a full on-the-ground appreciation of a complex situation.

Eventually, these concerns were balanced against the evident value of supporting the shelter reconstruction program, the rebuilding of the abandoned villages, return of civilians to their homes, employment of demobilized combatants and the economic reactivation of the area as factors in the success of the IFOR mission. Once all of these factors were comprehensively understood, and the specifics of the requested support had been detailed, senior officers vigorously supported the cooperative effort.

Once security has been established, military support for civilian-led reconstruction efforts should not be perceived as mission creep, but rather as integral parts of the military's objectives, including the exit strategy itself.

- The civilian-led reconstruction activities implemented in Bosnia by the USAID/DART and its NGO implementing partners were essential to the successful conduct of the IFOR mission and to an eventual exit strategy. The civilian agencies possessed the expertise required to assess the needs, determine what was realistically possible to achieve, and to get the job done in a timely manner.

Such civilian activity had been counted on by the U. S. military during its mission planning. It is important that such civilian organizations be permitted to take the lead in these areas. The military should not duplicate these functions because this is an inefficient use of resources better devoted to their main mission. In one case, a reconstruction assessment conducted by military forces which did not have concrete resources to offer raised unrealistic expectations among the beneficiary communities. This could have discouraged the civilian sector's involvement and made its job more difficult. A civilian-led reconstruction process is an essential element of a military exit strategy; substituting the military for what should be civilian roles detracts from the efforts of both.

On the other hand, modest, well-planned and well-coordinated focused support by the military to civilian reconstruction operations benefits both, and is an efficient way of supporting their ultimate objectives.

HUMANITARIAN SECURITY: CHALLENGES AND RESPONSES

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I. Introduction

The business of providing humanitarian aid has become increasingly dangerous. In virtually every part of the world, those providing aid to distressed populations have been robbed, beaten, raped, abducted and murdered. In recent years, in fact, more people have been killed in action working for the Red Cross than for the U.S. Army. The causes for increased risk to relief workers are complex and varied, and operate on a number of levels. While this is not a new problem – relief workers have always confronted dangerous environments – the number, scope, and nature of threats to those engaged in humanitarian assistance has become much more severe in recent years, consistent with the proliferation of internal conflicts. United Nations humanitarian operations in conflict areas grew from five in 1985 to a total of 28 complex emergencies around the world in 1995.¹

The humanitarian aid community, to include the United Nations, the Red Cross, and non-governmental organizations (NGOs) and private voluntary organizations (PVOs), has been struggling to come to terms with the increased risk their personnel face in conducting relief operations. A recent survey of the humanitarian community concluded personal security was a major source of stress for expatriate field staff working in dangerous situations. Only 6% of those interviewed – which included development workers – recorded no security problems at their work location.²

In response to the sharp increase in security threats, the United Nations and its relief agencies have instituted a number of security programs and measures, as have several of the larger NGOs. The overall impact of these measures is difficult to measure in terms of incidents deterred or prevented, although the case can be made that general awareness of security issues has been improved over the last five years. Humanitarian assistance remains highly risky however, as recent events in Africa and Central Asia demonstrate.

Donor governments have also recognized that physical security is a critical component in making it possible to deliver relief aid to those in need in conflict environments. As recently as 1996, the International Community actively contemplated intervention by a multi-national military force in the Great Lakes Region to "to establish security and get humanitarian relief access"³. In December 1992, a multi-national mission with a similar objective to "secure relief operations"⁴ was launched in Somalia, with results that caused many in the United States to question the advisability of having the U.S. become involved in similar humanitarian emergencies from a security perspective.

As we survey the world situation, it remains clear that humanitarian crises will continue, and that severe risks to those who provide relief in complex emergencies will also manifest themselves. Recent evidence indicates that as the demand for aid grows, donor nations will continue to rely on NGOs, the UN and the Red Cross to provide relief as opposed to conducting direct unilateral operations. It also remains clear that then U.S. and its major partners will retain the option of providing direct support to relief operations in insecure environments, with military force if necessary. As the U.S. National Military Strategy for 1997 observes, "armed forces can assist with the pursuit of *humanitarian interests* when conditions exist that compel our nation to act because our values demand U.S. involvement"⁵. Similarly, UK Secretary of State for Defense Michael Portillo, announcing Britain's willingness to send a contingent of troops to Zaire to facilitate relief operations, responded to concerns about a lack of "vital national interest" in that conflict with the statement, "...Britain is a civilized nation. We can see that people are about to die in their thousands and we are one of the few nations on earth who have the military capability to help at least some of them."⁶

Military humanitarian intervention is also explicitly called for in multi-lateral organizations outside the UN. For example, in the 1997 Amsterdam Draft Treaty on European Union which is currently pending ratification, article J.7 specifies that the EU may avail itself of the Western European Union (WEU) to carry out "humanitarian and rescue tasks, peacekeeping tasks and tasks of combat forces in crisis management, including peacemaking."

U.S. national security policy, most recently expressed in Presidential Decision Directive 56, directs the U.S. military to plan for providing security for relief agencies in hostile, or "non-permissive," environments.⁷ Contrary to widely-held assumptions, the relief community, in recognition of the increased complexities of the security environment, has often called for military intervention to provide security in extreme situations so that relief could be administered and the protection of endangered populations ensured.⁸ Despite these calls, there is a measure of skepticism as to the effectiveness of military intervention in practice.⁹

The commitment by relief agencies and donor governments to continue to respond to humanitarian emergencies in insecure environments argues for consideration of practical measures that could reduce the risks faced by relief workers. This paper attempts to take a modest step in that direction through increasing the understanding of the security environment in which humanitarian agencies operate and reviewing some of their current security practices and arrangements. Several measures are suggested that may assist in improving operational security arrangements and capabilities. We then examine several areas where donor nation military organizations might interact effectively in a security context with relief agencies. We attempt to present many of the underlying key concepts and philosophies which are fundamental for most relief organizations, and how these can influence the operational environment for military commanders charged with supporting their operations. As one effort among many, our objective is to improve understanding and dialogue between organizations attempting to meet a common goal: safe, effective delivery of relief and provision of temporary protection to those in need.

II. Scope of the Problem

The problem of security for relief operations is widespread and pervasive. In June 1997, the UN considered 53 countries to be insecure to some degree; 28 were considered wholly or partially to be at phase three (requiring relocation of all non-essential staff and all dependents) or above. UNHCR calculates that at the same date it had over 3,000 staff working in areas designated insecure, around 10,000 if associated NGOs are added into the equation¹⁰. The working environment of UNHCR staff is said to have "altered dramatically" over the last five years¹¹.

The brief recitation of recent security incidents below illustrates the scope of the problem¹²:

- In Somalia more than a dozen relief workers have been kidnapped and killed since 1991. In 1995, an Italian doctor was murdered there while working for Caritas/Italy.
- In Burundi, Tutsi extremist bands have repeatedly attacked relief convoys, compounds, and personnel. In 1995, at least 10 international and Burundian relief workers died in politically or criminally motivated attacks, while in 1996, three ICRC delegates were killed while conducting relief operations.
- In Sudan, four Sudanese working for Save the Children, Norwegian Peoples Aid, and German Agro Action died in three separate war-related incidents in 1995.
- Also in Sudan during 1995, 41 international relief staff were taken hostage and held for various lengths of time by various parties to the conflict there, while an additional 29 were seized in

1995. There were 35 evacuations of relief personnel between mid-1995 and mid-1996 for security reasons.

- In October 1995, an American relief worker lost her legs and another was injured when their car hit a land mine near Goma, Zaire.
- A French aid worker was killed in November, 1997, during efforts by security forces in Tajikistan to free her and a colleague from their abductors.
- Six ICRC workers were murdered inside a compound protected by security guards in Novy Atagi, Chechnya, in December, 1996;
- In January, 1997, three Spanish medical personnel working for the NGO MDM were murdered in northeast Rwanda, while in the same attack an American was severely wounded and lost a leg;
- In February, 1997, five personnel representing the UN High Commissioner for Human Rights operation in Rwanda (HRFOR) were ambushed and murdered in southwest Rwanda.

Anecdotal evidence suggests that there has been a significant growth in threats to relief workers over the past six years. The authors have been unable to uncover definitive statistics or quantitative analysis on incidents and casualties affecting the relief community, and have no evidence that such an analysis exists for the relief community as a whole. The UN Security Coordinator (UNSECOORD) notes that prior to 1992, security was "not a major issue" for the UN, that "UN policy was that staff and dependents should not be exposed to dangerous situations", and that "it was almost unheard of for a staff member to be killed." UN statistics state that deaths amounted to one staff member per month in 1992, one every two weeks in 1993 and more than one a week in 1994; the figures were back down to one a month in 1995 and 96, but there were nine fatalities in the first two months of 1997.¹³

In terms in overall scope, the UN Security Coordinator reported in April, 1997, that between 1 January 1992 and 1 March 1997, there were 131 UN staff members killed, of which 28 (21 percent) were engaged in humanitarian operations, and 68 (52 percent) were killed in areas where there was no de facto government. Between 1 January 1994 and 17 March 1997, there were 119 individuals taken hostage in 35 incidents, with staff members being held for varying amounts of time ranging from several hours to five and a half months. It is important to note that of the 119 individual kidnapped, 67 percent were internationally recruited staff members. Regarding rates of incidents, UN statistics state that deaths amounted to one staff member per month in 1992, one every two weeks in 1993 and more than one a week in 1994; the figures were back down to one a month in 1995 and 96, but there were nine fatalities in the first two months of 1997.¹⁴ The International Committee of the Red Cross (ICRC), one of the largest and most active relief agencies, reports that in 1996 its delegates suffered 153 security incidents, to include staff members killed or wounded, a figure which has risen constantly over recent years.¹⁵ As in the case of the UN, numbers wounded or killed peaked in 1993/94 were lower in 1995 and 1996, but there is no sign that this represents any sort of long-term down-turn.

The impact of increased threats to relief workers in some cases is readily apparent, while in others it is more subtle. In situations of extreme risk, relief operations are suspended and humanitarian agencies evacuated. The resulting loss of life in the affected population is significant – both from lack of access to relief programs and from the protection international agencies offer as "witnesses" to deter atrocities. There is also a more subtle impact on the morale and retention of those in the humanitarian community, who in the best of conditions are used to working long hours in austere environments. The psychological effects of operating in high risk situations where one's personal safety is continually in question, enduring long separations from family and loved ones knowing the extreme danger the family member faces, and being surrounded on a daily basis by death and destruction all contribute to critical levels of stress and potential lasting psychological trauma. Job and financial insecurity and poor standards

of line and human resource management in agencies also make a significant contribution to situations of stress which can all too easily cause field officers to make serious mistakes.

III. Potential Causes

Understanding the nature of threats faced by relief workers, and the potential causes of these risks, is an important element in formulating responses. For present purposes, a four-fold distinction is proposed: accident, criminality, banditry and targeting.¹⁶

Accident refers to being caught in crossfire, being in the wrong place at the wrong time, falling victim to landmines, or aviation and road accidents and the like.

Criminality is largely self-explanatory. **Banditry** refers to armed factions seeking to plunder aid agency assets with an economic value in order to feed their war machine or for personal gain. It is also a risk in post-conflict settings where small arms remain freely available and alternative means of earning income are in short supply. Hostage-taking for ransom (a particular problem in the Northern Caucasus for example) also comes under this heading.

Lastly, **targeting** refers to deliberate attacks or threats aimed at an agency in order to disrupt its activities or to influence the behaviour of third party, mainly international, actors, either to withdraw or, on the contrary, intervene more forcefully. Such motivations for attacks on relief workers have characterised operations in, for example, Bosnia, Somalia, and the Great Lakes.

As we observed earlier, a detailed analysis of incidents is presently not available. Anecdotal evidence does suggest, however, that the criminality and banditry categories predominate. It would also appear that relatively simple precautions would have been sufficient to prevent a number of the casualties which have occurred in these categories.

Much evidence, but again largely anecdotal, is available to establish a causal link between increased risk and a number of factors which characterise present-day conflicts, including:

- the economic value of relief supplies;
- the impact of relief on the dynamics of conflict
- the potential political capital which aggressions against relief workers may attract;
- the possibility of collecting significant ransom money; and
- collateral killing as a result of the intrinsically anti-humanitarian character of the war goals of parties to internal conflict.

The particularly brutal nature of ethnic or religious internal conflicts and the dynamics to which they are subject undermines respect for the legal status of relief workers,¹⁷ blurs the distinction between combatants and non-combatants, and overcomes the notions of war objectives inherent in the Western tradition of *ius ad bellum*.¹⁸ These factors, which have been discussed in detail elsewhere,¹⁹ all contribute to a climate where relief workers become valuable targets to subvert the war effort of an adversary.

There may be another structural factor contributing to increased casualties and risk. In a climate where donations to aid agencies have increased dramatically for humanitarian operations while development expenditure has declined,²⁰ a phenomena which some suggest is caused by governments attempting to display their concern without having to implement direct political or military solutions,²¹ competition between relief organizations for funding has intensified and new, inexperienced agencies are enticed onto the market. It has been argued by one of the authors elsewhere that this competition leads to

increased risk taking between agencies. From this perspective, donors in effectively force existing players to discount risk - effectively to reduce the value they place on the security of their staff - in order to remain "competitive". In other words, agency and donor funding behavior can also unwittingly give rise to risk.²²

It is important to bear in mind when considering the causal factors above that these conditions induce increased risk, but they do not directly lead to incidents as such. As was noted recently in a presentation by UN humanitarian agencies, relief workers "are often working in areas of operations where governments are seemingly reluctant to deploy their peace-keeping soldiers."²³ Many of the risks relief workers face, however, can be limited or mitigated through security procedures and practices, training and awareness.²⁴ Unfortunately, in many cases, serious security incidents have resulted from a lack of even basic precautions, awareness and understanding of the threats field workers face. In recognition of these shortfalls, a number of agencies have become aware of the need to significantly enhance their security capabilities over the past five years, and several have indeed moved to improve them. We will briefly review several of these programs below.

IV. Current Responses

In providing relief, the UN plays a leading role, not only in the conduct of operations but also in sponsoring NGOs and PVOs as "implementing partners." With a few notable exceptions, the UN has by far the most organized security system and capability, and in most situations the only security capability on the ground during relief operations. Often, the UN provides the only structured security system, the only coordinated evacuation plan, and the only means to carry out evacuations when necessary.²⁵

Within the United Nations system, the United Nations Security Coordinator (UNSECOORD) is tasked with coordinating, planning and implementing inter-agency security and safety programs and acting as the focal point for inter-agency cooperation on security issues. UNSECOORD's operating costs are funded on an inter-agency basis, and its mandate covers all UN staff and staff on UN mission, whether involved in humanitarian assistance or other UN activities, with the exception of staff of UN peacekeeping missions.²⁶ UNSECOORD is a relatively small office, consisting of the UN Security Coordinator, who also holds the post of Assistant Secretary General for Conference and Support Activities, five professionals and three administrative staff.

In high threat areas, UNSECOORD provides field security officers (FSOs) funded on an inter-agency basis as required to support the Designated Official (DO), normally a high-ranking official from a UN agency who reports on security matters to UNSECOORD in New York. The DO is responsible for developing overall UN policies on the ground, formulating security and evacuation plans, forming a security management team (SMT) of senior agency and sometimes NGO representatives, and for establishing security phases given the threat to UN operations and personnel. The DO, in consultation with the SMT, coordinates UN security measures with the host government, with embassies, and with NGOs.²⁷

The UN relies in large measure on the host government (assuming there is one) for ensuring the protection of staff involved in relief operations. The UN recognizes the host nation's responsibility to maintain order, and in particular to protect officials and the property of international organizations, which is an obligation under the United Nations Charter. UN staff members also have specific legal protection by virtue of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946 and, in the future, the Convention on the Security of United Nations and Associated Personnel adopted by the General Assembly on 9 December 1994 but at the time of writing not yet in force.²⁸ As UNSECOORD

observes, however, "Whereas in the past personnel were assured protection by virtue of their association with the work of the United Nations, this is no longer the case. On the contrary, personnel are increasingly at risk because of such association."²⁹

The primary UN agencies engaged in front-line relief operations – UNHCR, UNICEF, and WFP – have established their own security capabilities in coordination with UNSECOORD. UNHCR and UNICEF have established security offices at their respective headquarters in Geneva and New York, and have hired their own field security officers to work in high risk areas. These officers are primarily focused on the work of their own agencies, although UNHCR is interested in concluding security arrangements also with its implementing NGO partners, and coordinate their activities with the UNSECOORD FSO. They develop specific operational plans for their agencies within the guidelines established by the SMT, conduct facility surveys to improve building security, establish emergency procedures at the country level and at specific sites, coordinate emergency communications, oversee contract security operations, coordinate specific operations with military officials where appropriate, provide training and situation awareness to staff operating in the field and to headquarters, and respond to specific incidents and operational requirements as they occur. FSOs are almost always unarmed,³⁰ and are often retired or former military officers with limited direct experience in relief operations.

Other UN agencies, for example the Office of the High Commissioner for Human Rights and the International Criminal Tribunal, have a security organization developed along similar lines. In these cases, however, given the more demanding tasks of witness protection and investigation, a more robust capability is required. In the case of the International Criminal Tribunal for Rwanda (ICTR), FSOs are augmented with uniformed, armed UN security personnel.

It can be argued that the creation of agency-specific FSO positions reflects dissatisfaction with the existing UNSECOORD system arrangements, or is a recognition of the limitations of the existing system in addressing the scope of the threats that agencies face in the field. As of April 1997, there were 27 UNSECOORD FSOs funded on an interagency basis.³¹ The performance of the UN security system has come under close scrutiny in recent years, and there are those within the UN system who believe that it is being overwhelmed by the current security challenges agencies face.³² Discussions with current and former agency FSOs have surfaced the concern that relief organizations have different operational requirements than those normally encountered by the UN system as a whole, and that if the agencies are expected to fund the UNSECOORD FSOs, they would prefer to have a more focused and dedicated capability outside the capital city. Regardless of the degree to which agencies implement their own security arrangements, the benefits of having a high-level official representing security issues within the Secretariat is recognized as a significant strength of the current system.

Although the primary UN relief agencies have published manuals and security operations guidelines, and provide some limited training to staff members prior to deployment to the field, most agencies acknowledge that their staff members are under-prepared for the degree of risk they face in high threat situations.³³ UNHCR, for example, notes that training "is a crucial element in assuring staff safety and security" but that while a training program exists "very few people have benefited from it."³⁴ Training provided prior to deployment is often augmented with country and site-specific training and drill once a staff member arrives in-country, but the degree to which this supplemental training is provided or approaches adequacy varies from agency to agency, and from FSO to FSO.

The security relationship between UN agencies and NGOs in the field is complex, and while specific some guidelines exist on paper, often implementation is situation-specific. In terms of formal guidance, under an MoU circulated by UNSECOORD in January 1997, NGOs who are implementing

partners of organizations of the UN system may request to be included in UN security arrangements. To participate in the UN system, NGOs must agree to pay their share of the related costs, using the same formula that is applied to UN agencies, and to abide by UN Security guidelines and directives. With regard to evacuation, assistance is provided to NGOs who have not entered into such an agreement, or are not implementing partners, on an as possible and to the extent feasible basis. Local staff of such NGOs, just as local UN staff, would generally not be considered eligible for evacuation.³⁵ The option of concluding an agreement with the UN to be included in security arrangements is not available to NGOs which are not UN implementing partners. The UN limits it, moreover, to those employees which are directly engaged in contracted relief activities. This situation could conceivably give rise to two categories of security cover within the same NGO – one for staff carrying out UN work and another for all other staff.

Thus, while system-wide security may look good on paper, it would be misleading to think of it as a genuinely centralized system cover the full scope of relief operations. While major decisions and policies are coordinated within the system at the country and headquarters levels, actual practices in the field are agency specific, and vary from organization to organization, and from situation to situation. In fact, the decentralized character of the current system may in some ways be a strength as opposed to a weakness, allowing agencies to tailor specific procedures and capabilities to their own requirements, although at the same time it risks the fragmentation and non-standardisation of security information, analysis and planning and hence a significant loss in the potential response of the system.

The UN is acutely aware that its security system and practices need to be strengthened, and is taking a range of steps to improve its overall capabilities. Recent pressure by the UN employees union to improve security conditions for staff members has further increased pressure on the UN's leadership to take more decisive steps.³⁶ Several recent measures are presented below, but in almost all cases security enhancements have been limited by funding constraints. In recognition of the severity of the problem, UN General Assembly Resolution 52/45 calls on the Secretary General to present a report on the "security situation of all humanitarian personnel and measures to be taken to improve it".

There is even more variance within the non-UN relief community in actual practice and capabilities. The ICRC is perhaps the most advanced non-UN relief organization in terms of its security training program, guidelines, and overall capabilities. The organization has gone so far as to create a training site in Switzerland which simulates a contested eastern European village, and provides its delegates with up to two weeks of realistic pre-deployment training.³⁷ The ICRC also provides specific security training to "security delegates," which it recruits externally and from within its own ranks. Security delegates are assigned to high risk operations on an as needed basis.³⁸ The ICRC has also developed specific guidelines for delegates, which provide practical guidance on different operational security situations. It incorporates suggestions on behavior which address its special status, including a prohibition against using armed escorts except in exceptional situations.³⁹

In terms of NGOs, individual agency preparation of their staff members varies, primarily in direct proportion to the size of the agency and its experience. Save the Children Fund – UK, for example, has published and recently updated a detailed manual providing operational and personal security guidelines and procedures to staff members.⁴⁰ A few other agencies have undertaken similar efforts to provide security handbooks to staff members prior to deployment. Security-specific training, however, is more the exception than the rule in most NGOs. Some of the larger NGOs have formed security offices, or have appointed agency-wide security coordinators. One of the first agencies to take this step was World Vision, although the individual in charge of security coordination would be the first to admit that he had no specific security experience or capabilities prior to assuming the position.

In an effort to redress the lack of security doctrine and trainers for NGOs, the U.S. Office of Foreign Disaster Assistance (OFDA) sponsored a project to develop a training curriculum for NGO cadre trainers. Conducted by the U.S.-based NGO umbrella organization InterAction, cadre-trainer training was provided to NGO representatives at a workshop held in January, 1998. Topics included personal security, situation awareness, planning and communications. Trainers were drawn from the relief community, and the course was specifically developed to address the specific needs of NGOs. InterAction plans to hold another training session later in 1998.⁴¹

At the field level, NGOs in high risk areas will frequently appoint a staff member to oversee security arrangements and to coordinate any security planning or emergency responses with UN FSOs. In some cases, NGOs operating in a country will nominate a representative to serve on the UN SMT.⁴² However, with few exceptions, the staff members involved have little experience in security practices, techniques, and capabilities, other than those gleaned from prior operations. In many cases, they lack a framework at all to assess and plan for specific security risks. This is due in part to a shortage of individuals with the multi-disciplinary profile which, ideally, is needed for a field security officer working in a humanitarian relief context. It has become apparent in previous operations that it is not sufficient to take a relief generalist and appoint him or her in charge of security, any more than to take a security professional without assessing the difficulties he or she may face in adapting to the relief culture. This problem is certainly not unique to NGOs, as security professionals within the UN have observed in conversations with the authors.

The evolution of NGO security capabilities will no doubt depend upon the unique institutional character of the agency concerned. While this is an appropriate and natural course of development, efforts such as the InterAction training program will provide more of an opportunity for agencies to achieve a minimum standard of capability. Several other efforts to develop codes of conduct and standards of practice have emerged through inter-agency efforts. Notable among these is the People in Aid "Code of Best Practice in the Management and Support of Aid Personnel." Principle 7 of the Code calls on signatories to "take all reasonable steps to ensure staff security and well-being," and sets indicators addressing pre-mission risk assessment, pre-deployment training, emergency evacuation provisions, and regular briefings to personnel on security procedures.⁴³ As guidelines such as the above gain wider acceptance throughout the NGO community, overall security practices will hopefully improve and the incentive to engage in risk-taking behavior to achieve a competitive position will be reduced.

V. Assessment and Potential Solutions

When assessing the overall effectiveness and identifying potential areas for improvement in the measures described above, it is important for external observers to bear in mind several characteristics of the relief community writ large, if such generalizations are possible.

First, it is important to remember that humanitarian organizations are by definition "soft targets." Traditional "target hardening" measures adopted by military and paramilitary organizations, such as increasing available fire power, use of quick reaction forces, focused intelligence collection, and issuing personal weapons are not viable solutions for relief agencies, in fact, they may even enhance the risks they face. Reasonably or unreasonably, even implementing increased physical security measures such as concertina wire and occupying walled compounds are often debated within the relief community. While the latter, physical precautions are often implemented on a case-by-case basis, it is often only after the security situation has deteriorated to a point where staff security is seriously threatened or incidents have

already occurred that agencies will take visible security measures. Almost all agencies will resist collaboration with armed units, fearing association will undermine the key tenets of impartiality and neutrality which, in their view, affords them access to contested areas.

Second, in general agencies prefer to take what has been referred to as an "anthropological" approach to security, believing that close and sustained association with the distressed population will afford the best degree of protection. This protection can take a number of forms, primarily as a means of establishing a conduit for information as a relationship is built between the community and the aid agency. In cases where potential attackers are from the benefiting community or well known to it, local pressure from the populace may act as a deterrent to criminals or paramilitary groups. Local communities may assist in early warning and, in extreme situations, in evacuation by alerting departing staff to the safest exit routes. The anthropological approach is also consistent with practices that emphasize reducing the material scope or incentive for abuses to take place, for example through the use of local merchants and service providers for delivery and distribution tasks, and, more generally, integrating the local population into the implementation of emergency assistance.⁴⁴

The down side of this approach is that it often requires highly experienced relief workers to implement effectively. Understanding even basic cultural perspectives, let alone the nuances often associated with individual behavior in high stress situations, requires no small amount of experience, training and awareness. There is also the problem of armed intimidation, with populations forced to choose between the immediate threat of an armed intruder or the more long term danger of lack of access to relief supplies and assistance. There is also the possibility that security conditions may change so quickly that it is impossible for supportive elements in the local population to alert those attempting to help them. And while tying an organization's security directly to the population it serves may enhance the effectiveness of relief provision to some degree, hostile elements will always view external actors differently from locals, and their treatment will reflect how the assaulting organization views their utility in achieving its own objectives.

Lastly, as we have said, if violence is tied into the nature of conflict or the war economy, incentives not to engage in it may be inoperative regardless of their source. It is even quite possible that local populations may lend support to aggressive or abusive action, directly or indirectly, because they view the action of those groups as more conducive to their long-term interests than is access to relief. It is hard, for example, to dispute that this was not essentially the case in Bosnia. Trying to judge behaviour in internal conflict by rational, liberal standards is a big mistake.

Third, the culture of relief agencies and the nature of their work heavily influences their approach to security. Relief organizations are committed to providing assistance to those in extreme distress, and in most cases the attendant risks associated with these operations are accepted as part of the package. The creation of "humanitarian space"⁴⁵ becomes a critical concern, not only for gaining access to those in need, but in providing a secure environment for agencies to operate. Risks associated with establishing and maintaining this space are often justified given the extremity of the circumstances, and the willingness to take risks is often rewarded within aid organizations and by those who fund them. Many of the most experienced relief workers began their careers in circumstances more benign than the current environment, and the "work ethic" which has become a cultural part of the relief community is rooted in a more forgiving past. This is a large part of the challenge relief agencies face today – a significant cultural re-orientation toward risk reduction and control as opposed to risk taking to achieve results.

Fourth, the need to maintain an independent character is also an integral part of NGO culture, and all the more so in the context of relief operations where the need to maintain impartiality is uppermost.

There is very rarely a hierarchical relationship, even between UN agencies and implementing partners, or anything even remotely resembling "command and control" in the military sense. The term "implementing partners" is far different than the contractor-client relationship in government-commercial or strict commercial relationships. This implies a collaborative relationship as opposed to an employee-employer one, and it is a relationship that is tied to the nature of the work or providing relief. While this "collaborative" relationship may have been somewhat eroded by what the International Federation of Red Cross and Red Crescent Societies (IFRC),⁴⁶ among others, has called the emergence of "contract culture" in the relief community, and NGOs are in reality somewhat less independent than they would claim or wish,⁴⁷ the underlying sense of a cooperative venture among independent entities at the service of civil society or human rights still exists.

With these underlying cultural characteristics in mind, a review of UN and NGO security practice raises several areas where capabilities and practices could be improved. These are particularly important when evaluating the potential effectiveness of military interaction with relief agencies in a security context. They fall into five areas: coordination; information management and analysis; training and personnel shortfalls; planning; and infrastructure.

Coordination: Coordination between agencies in the field is a recurring problem area. Agencies have differing and sometimes competing mandates, and are often reluctant to coordinate the type of detailed information regarding their operations that is required to plan and conduct effective emergency security operations. Moreover, even if such information sharing is deemed desirable, there is no overall unifying body to pull together the security efforts of NGOs, PVOs, UN, and unilateral donor operations. While there are partial exceptions -- Operation Lifeline Sudan for example -- extensive "unity of effort" is rare to non-existent. Coordination is informal, often in weekly meetings, if occurs at all. It is argued that the "contract culture" dynamic referred to above may influence cooperative efforts on the ground as agencies compete for resources within the context of a specific emergency. At the same time, however, if there is one area where relief agencies area tend agree (at least in theory) on the need for cooperative efforts, it is in the realm of security.

While command and control in the military sense is unrealistic, and no doubt undesirable, given the mission and institutional culture of the relief community, more formalized mechanisms for coordinating security operations are both desirable and necessary. Some of the significant obstacles to establishing such a cooperative coordinating framework include lack of funds (NGOs and UN security staff and operations are usually not specifically funded by donors, but are counted as overhead expenses, with obvious competitive implications); absence of an established mechanism that is fully inclusive (the UN system is at present not structured to cover all of the relief agencies -- and is already severely tasked keeping track of its own implementing partners); and the lack of qualified personnel within the NGO community to lead collaborative security structures that could operate on a more equal footing with the UN security system.

The concept of an NGO security operations center has been broached with at least one donor government, and within the UN, but as yet has not been implemented. This concept envisions a collaborative structure initially established with the help of the UN and donors, staffed initially with experienced security personnel with the support of seconded NGO staff members. Such an organization would be formed under the leadership of a "lead agency" NGO, or through the auspices of an umbrella organization such as InterAction. The center would address operations coordination, planning, field security and facility security assessments, communications, and information management and analysis.

Such a center would provide a useful mechanism for information sharing, training, dissemination of information and expertise, and sharing of labor intensive tasks such as facility surveys and convoy operations. It would also provide a venue for NGO leaders to develop unified policies on security conditions, operations and plans. Over a period of several months, the center would plan on moving over to full NGO staffing. Over time, NGO personnel would be rotated through the center, providing "on the job" training in security operations management and coordination.

In the absence of such a coordination mechanism in the field, initiatives such as InterAction's NGO Field Cooperation Protocol provide an initial policy framework which includes security issues. Signatories to the Protocol agree to consult with other NGOs in order to reach consensus in dealing with various issues, including a number related both directly and indirectly to security. The technical/procedural aspects of security are referred to under a specific heading.

From the perspective of working within current arrangements, some agencies and authors have suggested that the UN might formally take on greater responsibility for all humanitarian workers as a matter of course rather than on an *ad hoc* basis.

The option of UN leadership in security issues is worth exploring, particularly as regards policy issues and the provision of security "services". The institutional framework to do so probably needs some more thought. The central mechanism afforded by UNSECOORD should be strengthened, expanded in scope and provided with additional resources and more autonomy of action. A more workable solution may be strengthening the capabilities of UNHCR, UNICEF and WFP to enable them to provide better security support to their partner NGOs and others at the field level. Of course, such enhancement would have to take place within the context of an agreement by NGOs to follow UN security policies and guidelines, a condition which is resisted by some NGOs.⁴⁸

However, there is also a need for a mechanism which integrates the operational aspects of security which are specific to humanitarian aid, provides a standard platform for broad inter-agency cooperation on this issue, and offers appropriate scope for NGO input in setting its parameters. An alternative to the NGO security operations center concept would be a mechanism under the Office of the Coordinator for Humanitarian Affairs (OCHA), governed in the framework of the Inter-agency Standing Committee, and based on integrating security within general field support services, seems worth serious consideration.⁴⁹ Such a structure would host information-gathering and analytic functions, without necessarily affecting the formal chain of decision-making.

It has been suggested that an all-or-nothing approach to buying in is not necessarily appropriate, and that NGOs ought to be able to buy into some aspects of UN arrangements (such as emergency communications) and not necessarily others. The attractiveness to NGOs of the offer to participate in the UN security system is unclear: when UNHCR raised the issue with its main operational partners, "none of [them] had previously seen the document, and all of [them] stated they would not be signing it"; and that revisions were called for.⁵⁰ UNICEF, on the other hand, argues that NGO objections to the cost and loss of autonomy associated with "buying-in" are not convincing.⁵¹

Information management and analysis: In relief settings, security information management is ad hoc, and in many cases non-existent. Given the nature of relief agencies and their operations, accurate situation awareness and threat assessment is the best protection available when combined with solid individual and agency security practices. With the necessary limitations on armed security and "hardening" relief operations, a robust security information capability is the relief community's best defense. Through increased threat awareness, agencies are in a much better position to take appropriate

defense measures, avoid dangerous areas and situations, prepare their personnel, and affect timely evacuation in critical situations. Understanding who may be attempting to perpetrate actions against an agency's staff, why they may be a target, and what they can do to defend themselves is critical to safe operations in unstable environments.

Currently, relief agencies develop and maintain situation awareness in a variety of ways, ranging from reliance on individual and small team knowledge of local conditions, to country and regional security programs run by some UN humanitarian agencies. Despite this disparity in situation awareness approaches, all agencies should have a process to gather, analyze and circulate security information. Ideally, agencies would enter into arrangements that will allow the sharing of security situation information, perhaps along the lines of the security center concept outlined above.

A security information center would also facilitate collection security incident reports, analyze of those reports, and development of threat assessments. This data would be overlaid on organization locations and operations, staffing, equipment and capabilities. This information would be centrally located to support planning, crisis management, evacuation operations and risk assessment, which would be shared among all NGOs operating in the country.

The quality of security threat assessments, and resulting situation awareness, is primarily dependent not only on the existence of such an information management system but also on the quality of security officers and the experience of personnel in the field. While there are nascent programs evolving in the UN community (UNICEF's SoftRisk initiative, for example), situation awareness is lacking, particularly at the field level. There are several possible reasons for this shortfall. First, there are few staff members trained in conducting threat assessments, particularly when evaluation of military operations is concerned. It has been recently observed that "Assessing risk and determining risk reduction behavior is a skill that few staff may have, particularly those without professional military training."⁵² While the requisite knowledge of local conditions, and an awareness of trends and patterns can be developed over time, often this awareness departs as experienced staff members rotate to new postings.

Second, there are few formal mechanisms in place to collect security information. Those that exist are focused on collecting data on discrete incidents, and there are only infrequent and sporadic attempts to discern patterns and trends from these data. Even these attempts are uneven, dependent on the skill of individual security officers. Even if additional information could be collected, there are few guidelines available to help security officers and other staff members recognize key data, and the impact of these data on security conditions.

Third, collection and analysis of security information risks being viewed with suspicion by host governments and military organizations -- and, by extension, by most relief agencies themselves -- because it appears suspiciously similar to intelligence work. This is not without foundation -- the model we are proposing is indeed very similar to tactical and operational level intelligence efforts conducted by military organizations. This similarity raises a host of problems, some of which could lead to additional security incidents. In any event, an analysis that foresees the imminent collapse of the host government, or continued human rights abuses by particular military units, will be extremely sensitive politically if it gets into the public domain. The UN, which prides itself on transparency in dealings with member states, has few mechanisms in place to protect sensitive information, particularly in chaotic conflict situations in developing countries. NGOs have even fewer internal information security mechanisms, let alone procedures for sharing information between agencies. As a result, most relief decision makers in the field would rather not have staff members engaged in the production of sensitive information, preferring to get assessments orally or not at all. This obviously limits dissemination to those in remote locations who are potentially in the most danger.

Training / qualified personnel / dedicated personnel: Few NGOs have dedicated security personnel, and few provide focused security training. Security officers for NGOs are often assigned security as an additional duty, while already over tasked with their primary jobs. UN security officers are not in much better shape, having limited training from UNSECOORD and their host agencies. Most rely on personnel with military experience, which in most cases does not prepare them for the duties they must assume as field security officers. The point made above about the ideal security officer having experience in both the professional security arena (and in this regard, law enforcement experience may be preferable to military training) and in humanitarian operations (particularly those run by the UN or NGOs as opposed to military operations) cannot be overstated.

In terms of recruiting security personnel externally, military personnel who have conducted extensive mobile training team (MTT) operations may be the best source of recruits from the ranks of the military, along with personnel with significant on the ground civil affairs experience. There are several examples within the UN of retired special forces personnel, who are frequently tasked with MTTs in developing countries as part of their duties, making excellent security officers.⁵³ This is also the case with military personnel who have served in attaché positions, particularly in the region where they have worked in the recent past.⁵⁴ Civil affairs personnel are typically more attuned to the relief culture, particularly if they have experience working in civil-military operations centers (CMOCs) along side relief agencies.

The other option is to develop security personnel internally. This poses a number of problems for relief organizations, particularly if personnel lack any prior security training. This said, extensive on the ground experience in complex emergency situations is perhaps the best training ground for developing security personnel internally since it is virtually impossible for staff members to avoid dealing with security issues in their normal course of duties in front-line relief operations. Supplemental training in emergency communications, facility survey techniques, incident investigation, planning, threat assessment, personal protective measures, emergency vehicle operations, and perhaps close protection are a few of the areas where on-the-ground experience would need to be augmented.

At this juncture, we are reminded of a colleague who was appointed head of his NGO's security office. Having no formal security training, but possessing extensive operational relief experience, he set about educating himself on the latest security techniques by attending trade shows for security professionals. Here he was treated to the latest in video and audio surveillance technology, seminars on industrial espionage, and close protection of executives. While this is not to imply that nothing of value can be learned from the commercial security world, it is clear that the environment which relief security officers operate is dramatically different from most commercial security professionals. The curriculum and training tasks, conditions and standard have to be developed as a hybrid which is firmly grounded in the culture of relief agencies first, and borrows from existing security practices and capabilities as appropriate.

In lieu of designating dedicated security officers, many agencies assign personnel with little or no training security as an "additional duty." This practice, while acceptable in cases where duties are narrowly defined (such as the UN warden system) to augment full-time security staff, should be discouraged except in situations where there is only minimal security threats. Adequately addressing all of tasks which a security officer must conduct to be effective is a full time job and then some, as anyone with experience in the position will attest.

To this end, an area for possible collaboration between NGOs may be defining a generic security officer position description, and recommended candidate qualifications. Efforts undertaken by InterAction in the training arena provide a good start, and a soliciting the advice of experienced UN relief

agency security personnel, particularly those at UNICEF and UNHCR, would be an invaluable source of information. Development of minimum standards for security officers is fully consistent with "best practices" initiatives, and would also contribute to inter-operability between agencies on the ground. This would further reinforce the recommendations above on increasing cooperation on security operations.

Of course, training and recruiting security personnel costs money, and agencies are in the main unable to take these costs "out of hide," and are often unwilling to fund security at the expense of providing relief assistance. This again highlights the need for donors to fund security positions and operations, and indeed requires an effective set of security capabilities and arrangements as a precondition to funding. These recommendations are explored in greater detail later in this paper.

Planning: As is the case with information management, security planning is an ad hoc affair. The UN directs field security officers to develop evacuation plans, but there is limited contingency planning conducted. Again, the scope and quality of planning activities is dependent on the quality of the personnel involved. The situation with NGOs is even worse, with no real structure to planning or planning requirements. The lack of effective evacuation and emergency contingency plans become apparent at the worst possible moment, when staff members and decision makers are attempting to react intelligently to an unforeseen crisis, or if the crisis was anticipated, the timing was not. In any event, agencies can only benefit from planning activities, and planning efforts need to be incorporated as an integral part of an agencies activities in high threat areas.

Dwight Eisenhower is often quoted as observing that "Plans are nothing, planning is everything." The process of planning forces planners and decision makers to think through courses of action and consider and weigh alternatives. A deliberate planning process, in which a standard set of plans are developed prior to an emergency, enable security personnel to research and identify constraints and limiting factors (such as the availability of hospitals, airfields, and evacuation routes) and to line up necessary resources to support emergency operations. The benefits of conducting this research in advance are obvious, and allow security personnel to make better use of their time during a crisis when second count. Having plans on hand also helps ensure that staff drills and training are focused on procedures and practices that will be needed in an emergency.

Some of the areas which agencies should consider developing plans include: evacuation, hostage taking, medical emergencies, civil disturbances, discovery of mines in an operational area, arrest of a staff member, bombings, and seizure of facilities. This is only a partial list, which could be expanded to include virtually situation where the live, property and operations of agencies are threatened. In some cases, standard operating procedures will serve in place of plans, but in most cases requiring coordinated actions on the part of several individuals or organizations plans are appropriate. Once plans are developed, they should be evaluated, coordinated and rehearsed. A practice of adopting standard planning formats and processes in the NGO community could significantly enhance collaborative efforts in emergencies, particularly if combined with information sharing procedures.

It is also important to remember that planning is not a static activity, rather an on-going process. Plans must be reviewed with significant changes in the situation on the ground, with the addition of additional personnel and resources, and as plan authors depart for other postings. Decision makers, meaning those agency leaders charged with deciding to implement a plan, should be thoroughly familiar with the plan's contents. Plans should be conveyed on a regular basis to the agency's headquarters so that if communications are interrupted appropriate supporting actions can be taken if required. Plans should also be reviewed by donors and funding agencies to ensure their adequacy.

Infrastructure: All most all agencies in the field face significant shortfalls in the infrastructure required for effective security operations, including vehicles, communications, information management technologies, and physical security enhancements. The equipment and tools available to relief agencies has not kept pace with clear operational requirements for even basic necessities.⁵⁵ As a result, field personnel are required to accept even greater risks, while technologies and equipment are readily available commercially that could partially or completely mitigate threats. Part of this shortfall is a lack of awareness on the part of agencies, but the primary explanation is again lack of resources.

In the area of vehicles, UNHCR has highlighted the need for lightly armored vehicles to protect personnel against random small arms fire. While a limited number of these vehicles may be appropriate for some emergencies, it is important to remember that they offer scant protection against high caliber ammunition and light anti-tank weapons, which have proliferated almost to the extent of small arms. There is also a need for medical evacuation capabilities, even at the basic life support ambulance level. Vehicles should be equipped with adequate communications capabilities to cover a range of emergencies. Consideration should be given to including Cap-Sat systems and global positioning system transponders which can be activated in emergencies, as well as standard VHF and HF communications systems. In addition, where possible, agencies should consider contracting for dedicated helicopter medivac support. While the cost of such a capability is high, in many cases it will make the difference between life and death, and cost sharing strategies can defray costs to any single agency. Such costs should be factored into the overall cost of an operation.

Shortfalls in basic security equipment range from personal protective gear such as flak vests to facility security devices such as anti-intrusion devices. While a laundry list of potential equipment needs is not appropriate for this paper, suffice it to say that much research needs to be done in this area, and that all agencies would benefit from a minimum "table of equipment" for all operations conducted in high-risk areas.

Communications shortfalls is perhaps the most critical infrastructure problem area. Many agencies lack even basic, reliable communications capabilities beyond local VHF radios. Satellite communications capabilities are limited outside the UN agencies, and even then different agencies often are using different systems which prohibits inter-agency communication. More importantly, there is rarely an established emergency information net in place that includes all organizations engaged in relief activities. Even within the UN, "the issue of standardized effective telecommunications remains to be resolved ... when a crisis occurs, staff of different organizations are [often] unable to talk to each other."⁵⁶ This issue needs to be sorted out, and it is reasonable to call for the UN to play a lead role in defining emergency frequencies and ensuring their coverage in the field, including for NGOs.

Resolving communications shortfalls will also require trained personnel, in the form of technicians who can configure equipment appropriately, and in operators to monitor emergency nets and provide emergency management support. As K. von Brabant observes, "very few (agencies) have a radio technician permanently in the field or train their staff in basic radio techniques or repair."⁵⁷ Ideally, NGOs would be able to participate fully in existing UN systems, but in situations where this is not possible, it may be desirable to establish a 24-hour emergency communications capability within the NGO security operations center discussed above.

Summary: Before turning to potential cooperative areas between the military and relief agencies, it may be helpful to underscore a recurring theme in the preceding paragraphs. Cooperation and creation of synergy between relief agencies, both within the structure of the UN security systems and as an adjunct to it, is an essential precondition to improving security capabilities. The economies of scale

associated with sharing information, resources, practices, and personnel is essential to ensuring minimum acceptable security standards. In addition, cooperation and cost sharing eliminates any "competitive advantage" and agency might accrue from opting out of cooperative security arrangements. Detailed "best security practices" should be established in the NGO community, for many of the same reasons discussed in the previous paragraph.⁵⁸ Initial steps taken in this direction should be expanded, and should cover training, planning, information sharing, and communications.

Even with this degree of consensus and cooperation, the donor community must recognize its role in ensuring the security of relief workers. This point argues for a "best practices for donors" approach. The donor community must put incentives in place for agencies to reduce the risks they currently take. Funding must be provided to support the development of security capabilities, and a structured approach to security should be a precondition of contract and grant awards. Agencies should include the costs of security operations and personnel in their contracts, and donors should stipulate security requirements in RFPs. For those agencies working with the UN, participation in a cooperative security network in high threat areas should be set as a requirements for becoming an "implementing partner." The donor community can have a tremendous influence on the creation of safe operating practices.⁵⁹

As we will discuss in the paragraphs below, an integrated approach to security by the relief community would greatly enhance prospects with the military in the area of security.

VI. Potential Areas for Cooperation With the Military on Security

Since the early 1990s, military and humanitarian organizations have more frequently entered into an uneasy alliance to support the provision of relief to distressed populations. The concept of using the military to achieve humanitarian objectives is not new. As Jim Whitman of Cambridge University has pointed out, "as early as the year 1000, French princes of the Church declared their willingness to wage 'war against war' by the intervention of collective military forces under religious leadership."⁶⁰ More recently, most military organizations have developed capabilities to provide relief to civilian populations affected by war. This type of expertise most frequently resides in Civil Affairs Units,⁶¹ or units engaged in "civic action," however, recent peacekeeping and peace enforcement operations have blurred these doctrinal distinctions as conventional units become more directly involved in complex emergencies.

In the present effort, we are most interested in military intervention to secure access to distressed populations and to create security climates conducive to the provision of aid. Examples of this type of assistance include the creation of humanitarian corridors, disarming refugee camps, and providing direct security support to relief operations. These are typically short duration interventions as opposed to extended commitments such as peacekeeping operations. We are also interested in identifying potential areas where military organizations could indirectly assist relief agencies in the security arena.

The types of operations described above are linked to the recent (and some would argue aborted) evolution of peacekeeping operations into peace enforcement activities. This evolutionary process was characterized by an increased willingness to intervene in intra- as opposed to inter-state conflicts. These types of operations may involve the use of troops in offensive roles "to combat banditry and restore popular confidence in law and order."⁶²

The UN Security Council has in the past demonstrated a willingness to sanction the use of coercive military action in support of humanitarian space or in order to enforce IHL. Resolution 751 on Somalia specifically refers to the need for "safety and security of the staff of humanitarian organizations", and there are numerous parallels in other texts.⁶³ Stabilization operations of this type are most frequently conducted

in what national security analysts have termed "gray areas," or situations where conditions such as widespread population displacements; ethnic and religious conflict; terrorist organizations and agendas; among others exist.⁶⁴

Not surprisingly, the "gray area phenomena" overlaps directly with the security situation conditions relief workers face as discussed above. Jean de Courten, for instance, has observed that at the end of 1994 there were 17 operations in which ICRC and UN peacekeeping forces were concurrently present.⁶⁵ What is significant is that military analysts are grappling with the problem of how to apply forces trained, organized and equipped for direct force-on-force conflict to mission conducted in this environment. The U.S. Central Command (USCENTCOM) mission for Operation Restore Hope / UNOSOM II, to "provide a safe environment for humanitarian operations while operating under a UN mandate,"⁶⁶ fell squarely within this environment, and the military organizations involved have been coming to terms with the lessons learned ever since.

Several other examples of recent military operations that involved security operations in conjunction with humanitarian assistance activities include: Operation Provide Comfort in Northern Iraq; the UN Assistance Mission for Rwanda (UNAMIR); Operation Turquoise conducted in Rwanda by the French under UN sanction;⁶⁷ and Operation Uphold Democracy in Haiti. Other significant, but more traditional peacekeeping operations that involved extensive interaction with humanitarian organizations include UN Protection Force (UNPROFOR) operations in the former Yugoslavia; and the UN Transitional Authority in Cambodia (UNTAC); and the multi-national force (Operation Guardian Assistance in U.S. terminology) contemplated for deployment to eastern Zaire in late 1996.⁶⁸ These operations illustrate that the types of missions in support, wholly or in part, of humanitarian assistance will largely be conducted under some international mandate, and in most cases will be conducted by coalitions.⁶⁹

The nature of gray area conflicts by definition calls for a multi-dimensional, as well as a multi-national, response. As Larry Minear observes, "Post-Cold War crises are no longer simple affairs of single cause or single response. The political, military, human rights, and humanitarian dimensions, as well as the economic and development implications, now all come together like an accordion."⁷⁰ Cooperation between relief agencies and military organizations, in this view, is a given particularly at the most dangerous front-end initial intervention stages of international action or in situations where conditions deteriorate dramatically.

Several initiatives have been undertaken to clarify the military's role in providing security support to humanitarian operations. The Dutch, for example, in a Non-Paper from 1995 envision the creation of a UN Rapid Deployment Brigade which could act "as an advance party for agencies providing humanitarian relief or ... in cooperation with such agencies, for example by providing military protection to humanitarian convoys or by pacifying refugee camps so as to facilitate adequate humanitarian emergency relief."⁷¹ Recent British Army doctrine on peace operations observes that "A peacekeeping force may be tasked with specific protective tasks for a humanitarian operation. However, a (peacekeeping) force will not be able to ensure the protection and delivery of aid against wide spread opposition. Such a task and the guaranteed protection of human rights can only be achieved by a peace enforcement force."⁷² The British Army assumes that "Whilst (peace support operations) are not conducted exclusively by the UN, for the purposes of this manual it is assumed that they will be at least authorized by the UN, joint, involving two or more of the armed services, combined and/or multinational and multi-agency."⁷³ As noted above, U.S. PDD 56 recognizes the need for "humanitarian intervention" operations to provide security for relief operations, and that such operations may not have the consent of local military organizations and forces.⁷⁴

While generic doctrine for humanitarian operations is starting to be developed, the "political doctrine" is far less clear. Moreover, the track record is not good: as Prof. Adam Roberts has observed, "there has been remarkably little serious thinking about military protection, and the record of outside military involvement ... is full of instances of vacillation and retreat, poor coordination, a reluctance to make serious commitments and take serious risks, and achieving at best only temporary results".⁷⁵ He goes on to suggest that any such intervention is at risk "due to certain inevitable features of the way the UN goes about its collective business"; compromise does not breed the clarity that military commanders on the ground require.⁷⁶

Recent evidence suggests that in addition to political complexities, the degree of "fog" surrounding complex emergency situations, and the speed at which they evolve, may be prohibitive. This was apparently the case with Operation Guardian Assistance, where the fluid nature of the situation confounded military planners, and in any case, implementation of the mission would have been difficult given the geographic situation. The mission was never clearly articulated for personnel on the ground, and the creation of "humanitarian corridors" would have potentially brought the MNF into direct conflict with the warring factions. As a result, the complexity and degree of the severity of the situation was minimized, with the American and British Governments arguing that there were "only" 50,000 refugees affected, and many of these may in fact have been Zairian IDPs.⁷⁸ The reality, as became apparent after the MNF had packed up its forward base at Entebbe, is that the relief communities estimates of 250,000 refugees was much closer to reality.

Military-humanitarian coordination in gray area situations is both a challenge and opportunity that presents itself increasingly frequently, and the relief community (which, it is important to remember, is far from homogeneous) has expressed a variety of opinions on how it should interact with military organizations. As we noted above, on one end of the spectrum are those such as Mrs. Ogata of UNHCR, called for the creation of an international force able to separate genuine refugees from criminal/military elements in camps; and Mrs. Bonino, was vocal in calling for such an intervention in the Great Lakes in late 1996. The deployment of troops to Albania in 1997 was a successful example in this genre; and NATO/IFOR may have arrived too late in Bosnia, but most humanitarian agencies would agree that it was better late than never.

UNHCR has explicitly recognized the need for cooperation with the military, noting past collaborations in Cambodia, Northern Iraq, Somalia, the former Yugoslavia and Rwanda and observing, "These common endeavors demonstrate the value of cooperation between civil and military bodies, and timely, well-planned, coordinated military participation in humanitarian ventures." The agency has developed a manual for military units and commanders to "facilitate maximum coordination and cooperation between UNHCR and the military, and thereby to ensure the success of the UNHCR emergency operations in which the military take part, by helping members of the military to understand the nature, context and style of UNHCR activities in the field."⁷⁷

At the other end of the spectrum, for example, is the ICRC, who argues that "humanitarian work must be dissociated from military operations aimed at ensuring security and restoring law and order in regions affected by conflict." As a consequence, the ICRC rules out "the use of armed military escorts to protect humanitarian convoys or any other humanitarian activity" for its operations.⁷⁸ Armed escorts for relief convoys are seen as compromising the ICRC's humanitarian identity and, quite possibly, even the viability of the whole operation which may as a result be seen as non-neutral and a "justified" target for attack.

Where armed protection is called for, and only then as a last resort, ICRC's policy on the use of armed protection ties into their risk classification referred to above. In order to combat criminality, armed guards at workplaces and residences may be used if there is no other option available. "They are therefore out of the question in conflict situations, though they remain an option for confirmed bandits."⁷⁹ ICRC also specifies that when armed guards are used "it is preferable to call on an established security firm or the police rather than the army."⁸⁰

At the same time, however, the ICRC recognized that the military plays a role in establishing "humanitarian space," which the organization's 1997 *World Disasters Report*, defines as "a classic distancing technique employed to carefully separate military and humanitarian action, [which] offers considerable potential for effective military-humanitarian synergy when working in conflicts." The author goes on to clarify that, on this model, "the role of armed forces ... is to provide security and freedom of movement for all, such as keeping airports and roads open, and carrying out mine clearance".⁸¹ The ICRC thus views military intervention in some cases as a requirements to stabilize the security situation, while at the same time carefully distancing itself from direct operational collaboration.

There is generally recognition within the humanitarian community, then, on the need and even the desirability of military intervention in complex emergencies, although views on mechanics vary. The common theme among relief agencies focuses on creation of stable conditions to facilitate access and deter attacks against civilian populations and aid agencies. In this regard, there is agreement that the military plays a useful and in many cases indispensable role, particularly in the absence of a strong central government. At the same time, the notion of merely providing "coercive" security for relief workers and relief supplies is invariably viewed as problematic. As indicated above, on the basis of their convictions or of their experience, agencies show little enthusiasm for such coercive security. Even with these distinctions, there remains an urgent need for doctrinal clarity as to the typology and ground rules of any intervention.

With this general background in place, we now turn to specific areas where direct collaboration between humanitarian agencies and humanitarian organizations may be possible and beneficial.

Physical protection of relief operations: Clearly, it is the physical protection of humanitarian operations which raises the most controversy among relief agencies. In most cases, physical protection would initially reduce the threat to relief operations, providing a deterrent against attacks. As the concerns raised by ICRC highlight, significant problems may result from a compromise of the agencies neutrality. The problem of duration is also raised – if military forces are withdrawn, will aid agencies face even greater threats than if they were never introduced? Will attacks against agencies increase when protection is not visible, or will the provision of relief be so tied to armed protection that it is impossible when protection is lacking? These concerns have to be addressed through careful definition of the scope of the military mission, its rules of engagement (ROE), and the clearly structuring the relationship between military units and relief agencies.

If there is an international military presence, it is crucially important to distinguish clearly between its role and that of the civilian humanitarian agencies, while at the same time making sure that the combined international effort is coordinated at the strategic level. The authors of the UNHCR manual for military forces point out that regardless of the scope of their mandate, "peacekeeping forces will always have a mandate to use force in self-defense (which includes the defense of all United Nations personnel)".⁸² This raises again the status implementing partner agencies, as well as other agencies operating in-country that have no contractual affiliation with the UN.

When evaluating the potential use of military forces to support humanitarian operations it is important to bear in mind that the security environment is not static. While initial operations may be intended to be limited in duration, in circumstances where military clearly controls the situation (Operation Provide Comfort comes to mind), conditions change dramatically, altering the character of the mission. This was the case with the expansion of Operation Restore Hope to include apprehending Somali clan leaders as specified in Security Council Resolution 837. As the military experiences "mission creep" due to internal security conditions, or external mandates, the impartiality of relief agencies associated with the military is called further into question.

The military "foot print," or the size of the force and the speed with which it is committed to the operation are apparently significant factors in determining success, and agency, political and military decision makers should consider these contemplating humanitarian intervention. Citing several operations over the past eight years that "exemplify success," (although with admittedly narrow criteria), Donald Daniel and Bradd Hayes observe, "The common thread throughout these examples is the quick deployment of robust forces which, possibly through shock effect, implicitly if not explicitly deliver the message that they mean business."⁸³ These factors argue form rapid employment of a relatively large force with a well defined mission – all factors appealing from the military perspective but rarely aligning in the realm of coalition politics.

The spectrum of possible operations ranges from close collaboration in the form of armed protection of convoys, offices, residences and warehouses (in short, virtually every aspect of relief activity); to a disassociated presence along the lines of military observers who are strictly focused on maintaining the military *status quo*. There are numerous variations possible within these two poles.

One alternative is the possibility of providing a rapid intervention capability from a central location (preferably inside the affected country or area) could accomplish many of the same objectives of the physical protection force with reduced visibility. The utility of having a force available to intervene "surgically" if required has been raised in the Somalia context.⁸⁴ Such a force would be charged with responding to specific attacks or threatening situations, but would in the main remain physically and, more importantly, visually disassociated from relief agencies. respond to specific attacks or deter threats to humanitarian operations. There are a number of potential drawbacks to the rapid reaction force concept, including the response time to emergencies, response planning by both military organizations and relief agencies, and alert procedures. The conditions under which a rapid reaction force would respond would have to be carefully defined, and the concept may work best in the context of a larger operation.

Another option worthy of consideration is the possibility of providing specially trained military personnel to address agency security officer shortfalls. The practice of "seconding" military personnel to the UN is widespread, and there are a number of standby arrangements for logistical support in place currently. Standby arrangements are currently used to secure technical expertise, notably in the area of communications specialists, and is widely practiced by UN relief agencies. OCHA, for example, maintains a "Military Civil Defense Assets" database and standby arrangements that are activated to request specialized military capabilities. In situations requiring rapid augmentation of UN security officers, perhaps to address the needs to of implementing partners and other NGOs, the UN could request security specialists through this mechanism.

"Information" and threat assessment support: Providing intelligence from national sources could be a great asset to relief agencies on the ground attempting to respond to emergency situations and in understanding rapidly developing conflict situations. The same can be said for the potential of providing threat assessment on capabilities and intentions of participants in the conflict. This information should be

incorporated in the relief agencies assessment and planning efforts, particularly in the areas of aerial photographic information.⁸⁵ There are a number of recent examples of this type of information being provided to the UN,⁸⁶ and the creation of a coordination mechanism on the ground, such as a CMOC, greatly facilitates information sharing.

The development of information support relationships have been hampered in the past by the failure of civil-military cooperation (CIMIC) arrangements. If a military mechanism proves too difficult, governments can utilize their embassies to provide information to relief agencies. The notion of governments providing security-related information to agencies has some support in the humanitarian community. UNICEF has commented: "we strongly agree with this idea, noting that this already occurs between some governments and DPKO. Much information which is readily available to governments, including aerial photography, is not sensitive or can be made unclassified and still be of great value to humanitarians."⁸⁷

Some of the pitfalls associated with this type of cooperation is the potential comprise of neutrality particularly if the governments providing the information are viewed as backing one side in the conflict; the inability of the UN and NGOs to protect such information if it cannot be sanitized adequately; and the potential that over reliance on a limited number of sources may result in the unintentional politicization of agencies. There is also the danger of a perception of two-way information exchange taking place, increasing the risk to agencies on the ground.

In addition, there are limits to the accuracy of government capabilities as we noted earlier in reference to the Zaire case, and to the accuracy of their assessments. The accuracy of military assessments of conditions on the ground has also come into question in the context of Rwanda (referring to the incident where the 10 Belgian UNAMIR troops were killed) and in the assessments of the capabilities and intentions of Somali clans. With these limitations in mind, however, this seems like an area worthy of further exploration, particularly the practical step of developing information sharing protocols and guidelines for military commanders on the ground.

Evacuation support: Providing military support to evacuation operations is clearly a humanitarian activity, and presents the least confusion in terms of potential problems with impartiality. The type of quick, in-and-out non-combatant evacuation (NEO) such as that conducted in Liberia is well within the capabilities of a number of military organizations. A number of countries have shown by word and deed that they see this as a potentially important function of their militaries, and it is included amongst the Western European Community's (WEU) capabilities.⁸⁸ Potential for casualties, problems organizing agencies on the ground to facilitate rapid evacuation, coordinating the operation, political problems requesting evacuation from a third country. Military organizations can also be indispensable in assisting relief agencies with evacuation planning.

To ensure effective collaboration in the conduct of evacuations, particularly those conducted in "non-permissive" environments, requiring "forced entry" on the part of military forces, relief organizations should provide their evacuation plans to the participating military organizations. This may be best done by the headquarters of affected agencies, underscoring the requirement to keep evacuation plans current and to transmit a copy to their regional or primary home offices. It would also be advantageous for relief organizations to understand the capabilities and limitations of military organizations engaged in NEO operations. Finally, NGO participation in NEO exercises can only improve understanding on the part of all parties.

Training: There are several potential areas where military organization can provide training that could enhance the security capabilities of relief agencies. These include personal security, convoy and emergency vehicle operations, communications, facility security surveys, planning, and threat assessment. The military has conducted a significant amount of research in the area of force protection over the past several years, and much of this knowledge would have applicability in the relief operations arena.

This sort of training could be provided outside the context of specific operations as part of capacity building operations. In some instances, trainers could conduct security MTTs in-country if conditions permitted, in the same manner that MTTs are provided on a world-wide basis currently to foreign military organizations. This type of interaction would benefit both military organizations and relief agencies. The military would have a better understanding of relief agency operations and limitations, and would develop more confidence in agency security capabilities. Relief agencies would obviously gain from the extensive experience of the military operating in conflict situations, and would establish a greater understanding of military capabilities, and more importantly, limitations. This has been the case over the last several years with the U.S. Marine Corps sponsored Emerald Express exercise, and more activities of this type should be conducted, possible on a regional command basis.

While the question of "appropriateness" of such training may be doubted by some in the relief community, many of these concerns could be alleviated by tailoring training programs to relief agencies. Overall, this is also an area worthy of further investigation by governments in a position to provide security training support.

VII. Conclusions

The current situation with respect to the security of relief agencies clearly requires immediate and concerted attention from all involved. At the risk of providing a laundry list of prescriptive actions, we offer the following for consideration:

- NGOs must take steps to further address the shortfalls in security staff capabilities, general staff security awareness, deficiencies in communication and coordination. The type of security center concept outlined above may improve the situation on the ground, and current collaborative efforts such as those undertaken by the members of the People in Aid project should be strengthened. The mechanism of establishing a lead NGO for security should be investigated, appropriate cost sharing and operational agreements structured. Serious thought should be given to the security relationship NGOs desire with the UN – failure to adhere to UN guidelines should be recognized as potentially excluding them from evacuation in the worst happens.
- UN relief agencies should continue internal efforts to strengthen their internal security capabilities in many of the same areas, and work on mechanisms to improve the security situation of both implementing partner organizations and other NGOs operating in the same area. Efforts underway to strengthen the UNSECOORD structure should continue, particularly in areas that directly support the operations of the SMT. Overall analysis of security incidents occurring throughout the relief community should be undertaken as a matter of urgency, and information analysis, assessment and dissemination systems should be instituted and shared.
- Military organizations can provide a range of support to relief organizations in the area of security, but this support must be provided in the context of agency concerns for impartiality and neutrality. Specific procedures for information sharing should be developed, training opportunities investigated,

various mechanisms for providing direct protective support explored. Doctrinal projects should be furthered and shared. Forces should be carefully structured to maximize their deterrent value with credible force, while at the same time containing elements to support civil-military operations.

- Donor governments have tremendous influence over the relief security situation, and should assume responsibility for doing more to protect aid workers in the field. As is abundantly clear from the preceding pages, efforts to improve security capabilities have been severely hampered by the lack of funds for security. Security needs to be supported, indeed required, when considering grant awards. Donors should make security expertise and relevant information available to relief agencies, and should actively sponsor and encourage combined military-agency exercises.

Insecurity is a factor which may seriously compromise humanitarian operations, and it therefore needs to be received far more serious attention than has hitherto been the case. The traditional assumption that principles of neutrality and impartiality, plus the provisions of international humanitarian law, ought to be enough to ensure the safety of relief staff no longer holds true. Amongst other things, there is an urgent need for more professional agency and inter-agency security arrangements than exist at present.

This is not just a relief community issue: donors too need to become much more directly involved in issues of security, and the military needs to do more applicable thinking on what its contribution should and might be. There is no doubt that state-level actors possess significant resources to alleviate insecurity, but there is rarely, if ever, an integrated security strategy for humanitarian operations and so the potential to improve the situation goes largely unexploited. If a military operation is actually effective in creating humanitarian space, this is, on current terms, almost more by luck than judgement.

No amount of effort is ever likely to make humanitarian operations risk-free, but the risks associated with them could be reduced significantly through a judicious combination of measures which may be relatively innovative but are certainly not beyond the international community's grasp.

While the suggestions above provide an initial agenda for action, much remains to be developed, defined and implemented. Relief workers commitment to their vocation is legendary, and has been witnessed by millions around the world. The community as a whole must assume a similar degree of commitment to their own safety and that of their colleagues. It is incumbent on those who fund relief operations to recognize the price of insecurity, and take immediate steps to halt the suffering of those dedicated to stopping suffering.

¹ Bradbury, M (1995) Aid Under Fire: Redefining Relief and Development Assistance in Unstable Situations, Wilton Park Paper with DHA, ODI and ActionAid, HMSO, London; cited in Slim, H.; Planning Between Danger And Opportunity: NGO Situation Analysis In Conflict Related Emergencies; presented at the ActionAid workshop on emergency preparedness at Kiboswa, Kenya in March 1995.

² Macnair, R. (1995), "Room for Improvement", ODI RRN Network Paper n° 10

³ U.S. Department of Defense Background Briefing, Attributable To: Senior Military Official; Subject: Zaire; 15 November 1996.

⁴ Major General S.L. Arnold, U.S. Army, "Somalia: An Operation Other than War," *Military Review*, December 1993, page 27. MG Arnold was Army Force commander for Operation Restore Hope.

⁵ National Military Strategy of the United States of America – Shape, Respond, prepare now: A Military Strategy for a new Era. U.S. Joint Chiefs of Staff, September, 1997, page 6. Italics in original.

- 6 Cited in: Whitman, Jim, "Those That Have the Power to Hurt but Would Do None: The Military and Humanitarianism", presented to the 'Aspects of Peacekeeping' Conference, Royal Military Academy, Sandhurst, January 23, 1997; available at: <http://www-jha.sps.cam.ac.uk/a/a023.htm> posted on 4 July 1997
- 7 Office of the Assistant Secretary of Defense for Strategy and Requirements (OASD/S&R), background briefing, "Presidential Decision Directive-56: Managing Complex Contingency Operations," September, 1997.
- 8 Recent examples include UN High Commissioner for Refugees Mrs. Ogata calling for the creation of an international force able to separate genuine refugees from criminal/military elements in refugee camps in eastern Zaire; while the European Union Commissioner for Humanitarian Aid, Mrs. Bonino was vocal in calling for MNF intervention in the Great Lakes in late 1996.
- 9 de Waal, A. (1997), "Famine Crimes: Politics and The Disaster Relief Industry in Africa", Africa Issues, James Currey, Oxford, ch. 10.
- 10 UNHCR (1997), "Joint Staff-Management Committee on the Security and Safety of Staff in the Field - Report on Security and Safety of Staff in the Field", UNHCR Geneva.
- 11 Compare this with UNHCR's statement in 1997 that the humanitarian imperative is overriding and that only severe casualties would force withdrawal (UNHCR, 1997).
- 12 US Government Global Humanitarian Emergencies, 1996, Section 3; 01 Oct 1996; Levine, I. (1997), "Promoting humanitarian principles: the southern Sudan experience", *ODI RRN Network Paper* n° 21, May 1997, page 9; and various new reports.
- 13 United Nations Security Coordinator (UNSECOORD, 1997), "The United Nations Security Management System", presentation to the HLWG, Geneva, April 1997. Statistics on non-fatal events are not given. M. Arsanjani in *Université de Genève* (1996) gives much higher figures, including presumably military personnel: 456 fatalities amongst UN personnel in the period 1991-95. It is reasonable to assume that (rightly or wrongly) the UN is both more security-conscious and more risk-averse than many NGOs, so these figures probably underrepresent the phenomenon in the wider aid community. Arsanjani also argues that "no person responsible for any of these attacks has been identified, let alone held accountable" (p. 117).
- 14 UNSECOORD (1997). Statistics on non-fatal events are not given nor is an incident typology put forward, but it should be noted that only 25% of fatalities involved humanitarian/human rights workers and that 82% involved staff recruited locally. 68% of deaths occurred in areas without a *de facto* government. The figures do not include military personnel. It is not clear what definition of "staff" is used. M. Arsanjani in *Université de Genève* (1996) gives much higher figures, including presumably military personnel: 456 fatalities amongst UN personnel in the period 1991-95. It is reasonable to assume that (rightly or wrongly) the UN is both more security-conscious and more risk-averse than many NGOs, so these figures probably underrepresent the phenomenon in the wider aid community. Arsanjani also argues that "no person responsible for any of these attacks has been identified, let alone held accountable" (p. 117).
- 15 The ICRC is perhaps the best able to provide comprehensive statistics and to have reflected on causes and typology. ICRC statistics identify security 'incidents' as well as numbers wounded or killed. In 1996 they counted 153 'incidents' amongst local and expatriate members of their staff or persons under contract to them.
- 16 This partly follows ICRC's practice.
- 17 In conflict situations, relief workers are protected under international law (i) by virtue of their status as non-combatants under the Geneva Conventions; (ii) more specifically, under Additional Protocol I 1977 to the Geneva Conventions; and (iii) by virtue of specific rules relating to the UN, and the Red Cross. Specific protection may also be foreseen by means of bilateral instruments such as the Headquarters agreements that the Red Cross movement has negotiated with host governments.

- 19 "Ethnic Conflict and Operations Other Than War," *Military Review*, November, 1003, pages 18-19. See for example, Robert Kaplan's controversial "The Coming Anarchy," *The Atlantic Monthly*, February 1994.
- 20 UNHCR's budget, for example, has more than doubled between 1990 and 1995, from \$544 million to \$1.3 billion.
- 21 Ron Redmond, "Humanitarian Workers Easy Targets," *The Washington Times*, 5 May 1997, page 14. Redmond cites statements by Mrs. Ogata, calling relief operations a "humanitarian alibi" and a "fig leaf," and former UNPROFOR spokesman Michael Williams, now a senior fellow at IISS, who observes that "humanitarian actions by civilian aid agencies is the easy option for governments today... (humanitarian action) is always easier than finding a political solution or mounting preventative military action."
- 22 See, "Security of Relief Workers and Humanitarian Space," ECHO Working Paper, forthcoming.
- 23 UNICEF et al. (1997), "Humanitarian Assistance - Security and Stress Concerns and Challenges", presentation to the Humanitarian Liaison Working Group, Geneva, April 1997 (co-authored with WFP, UNHCR and DHAA), page 2.
- 24 This is of course not the only factor which can be acted upon to reduce serious security incidents, however. For a fuller treatment see ECHO (op. cit.)
- 25 This was the case during the evacuation of relief workers from Bukavu, Zaire in October 1996, conducted by the World Food Programme. Of 128 aid workers evacuated from Bukavu, five were WFP staff members and the rest from other United Nations agencies and NGOs. WFP News Release - 26 October 1996.
- 26 UNSECOORD's role is of course limited to the technical/procedural dimension of security which is the focus here. When it comes to negotiating humanitarian space or setting the parameters of the relief environment other parts of the UN come to the fore - either OCHA (formerly DHA) operational agencies such as Unicef in the context of Operation Lifeline Sudan, and/or the Secretary-General or Security Council.
- 27 UNSECOORD, "United Nations Field Security Handbook," 1 January 1995, pages 6-7, 12-14.
- 28 A call to states to become party to the 1994 Convention was included *inter alia* in UNGA Resolution 52/45. The Convention is discussed by M. Arsanjani in *Université de Genève* (1996), pp. 131 ff. and in ICRC (1998a), pp. 20-22.
- 29 United Nations Security Coordinator (UNSECOORD, 1997), "The United Nations Security Management System", presentation to the HLWG, Geneva, April 1997 page 1.
- 30 Although UNSECOORD field officers in Burundi and perhaps other locations have been authorized to carry fire arms.
- 31 United Nations Security Coordinator (UNSECOORD, 1997), "The United Nations Security Management System", presentation to the HLWG, Geneva, April 1997 page 10. UNSECOORD note that there are an additional nine chiefs-of-security at peacekeeping and other field missions. They note that they would like to provide FSOs to all high risk duty stations, but that inter-agency funding limitations have prevented hiring additional personnel.
- 32 Cf. E.g. the report of the UNHCR Staff Management Committee (1997), p. 1, "There is serious concern that the size and structure of both UNSECOORD and of UNHCR's own (security system) are not presently adequate to meet the challenges faced by staff in the field", p. 13 "The Designated Official System leaves much to be desired", and a review should address the need for UNSECOORD to have "the appropriate resource structure and management capacity to meet present, and future, security challenges". UN sources consulted informally by the one of the authors, while they appreciate that at least a UN-wide system does exist and support that in principle, have almost without exception confirmed this analysis: UNSECOORD needs to be strengthened, and its status may need review. Nonetheless, UNICEF has commented that "the

UN security management system is working much better than it did in 1994" and affirmed its belief in the inter-agency approach.

³³ Within the UN, security training has been recognized as a significant shortfall. UNSECOORD notes that "limited numbers of staff on an ad hoc basis" receive training, citing resource constraints, (United Nations Security Management System, April, 1997, page 9); while UNHCR, UNICEF and WFP state that "it would be impossible to overstate the need for additional training" ("Humanitarian Assistance - Security and Stress Concerns and Challenges", April 1997)

³⁴ UNHCR, "Joint Staff-Management Committee on the Security and Safety of Staff in the Field - Report on Security and Safety of Staff in the Field", UNHCR Geneva, 1997, pp. 2, 13. UNSECOORD notes that they have developed a training program jointly with UNHCR covering Personal Security Awareness, and have developed Security Management Training for limited numbers of personnel which is "provided to limited numbers of staff on an ad hoc basis as funds become available." UNSECOORD, presentation to the Humanitarian Liaison Working Group, Geneva, April 1997.

³⁵ Thus, for example, they were left behind in Bukavu in 1996.

³⁶ Reid, Robert, "UN Union urges Staff safety," the Associated Press - New York, 12 December 1997

³⁷ Colin Nickerson, "Relief Workers Shoulder A World Of Conflict: Aid Agencies Encounter Growing Dangers As Nations Withhold Peacekeeping Troops," The Boston Globe, 27 July 1997, page 1.

³⁸ Jean de Courten, "Statement on Security Environment," presented to Humanitarian Liaison Working Group, 25 April 1995.

³⁹ Schmidt, Frank, "Recommendations for improving the security of humanitarian workers," International Review of the Red Cross no 317, 1 March 1997, p.152-155

⁴⁰ Cutts, M. and Dingle A. (1995), *Safety first: Protecting NGO employees who work in areas of conflict*, Save the Children - London.

⁴¹ Inter Action, "Monday Developments," August 1997, and conversations with InterAction personnel.

⁴² This was the case in Rwanda during 1996-1997, when a representative from Lutheran World Federation was selected to represent the interests of the NGO community to the SMT.

⁴³ "The People in Aid Code of Best Practice in the Management and Support of Aid Personnel", *ODI RRV Network Paper n° 20*, Feb. 1997, page 23.

⁴⁴ Prendergast, J. (1996), "Frontline Diplomacy: Humanitarian Action and Conflict in Africa"

⁴⁵ The term "humanitarian space" has come into widespread recent use without agreement as to its precise definition. The origins of the term lie in the idea of a consensual space for humanitarian actors to do their work. Until recently, the fact that physical security is an intrinsic and necessary part of humanitarian space has tended to be downplayed. It is becoming increasingly clear, however, that this needs to change and, indeed, is changing.

⁴⁶ IFRC, "Conflicts, contract culture and codes of conduct," June 1995.

⁴⁷ cf. inter alia De Waal, "Famine Crimes", African Rights, London 1996, p. 141

⁴⁸ A recent example was the vocal criticism amongst NGOs of the UN's decision to categorise half of Rwanda as unsafe in 1996/97, in opposition to their own views following the murders of five HRFOR personnel and three members of MDM. The UN is clearly in a difficult position when it is viewed as the sole arbiter of the security situation in any given country and its views need to be interpreted in function of the specific situation. Nonetheless, by virtue of its experience and size, it does and should play a role beyond the borders of the UN family *stricto sensu*.

⁴⁹ OCHA, formally known as the Department of Humanitarian Affairs (DHA) is responsible for coordinating UN responses to disasters. There is on-going debate within the UN community about organization's role in complex emergencies. Germane to the present discussion is DHA's role in establishing the UN Rwanda Emergency Office (UNREO), which coordinated UN relief activities within Rwanda during the 1994 emergency. UNREO's information coordination functions covered many of the

same security-related activities discussed in this paper. See Taylor B. Seybolt, "Coordination in Rwanda: The Humanitarian Response to Genocide and Civil War," *Journal of Humanitarian Assistance*, available at <http://www-jha.sps.cam.ac.uk/a/a027.htm> posted on 5 July 1997. Also relevant is the OHCA On-site Operations Coordination Centre (OSOCC) capability, which could be strengthened to incorporate security information activities. Indeed, the DHA Information Centre which essentially operated as an OSOCC in Kigali during late 1996 and early 1997 provided a rudimentary capability in these areas.

⁵⁰ UNHCR (1997), p. 13

⁵¹ Source: comments to the authors.

⁵² von Brabant points out in, "Security Guidelines: No Guarantee for improved Security," Relief and Rehabilitation Network Newsletter #7, page 3.

⁵³ The authors are aware of cases where UNHCR and UNICEF has recruited from the special forces community (both U.S. and UK) with excellent results.

⁵⁴ Although an important cautionary note is that at least in the U.S. case, attaché duties include intelligence collection activities, which may make personnel unacceptable to host nations.

⁵⁵ An example of widely available technologies is the "emergency activation" switch in use on most radios carried by police and fire departments in the U.S. The EA switch is flipped when the staff member is in distress, and sends an emergency signal to the communications center. The radio operator is not required to speak, and there is no emission from the radio to alert people in that area that an emergency signal has been transmitted. The radio transmitting the signal is stamped with the agency and unit, and after confirming that the signal is a real emergency, the dispatcher sends units to the rescue. This system requires a full time communications center, and a standardized capability within the radios and base station, and operations coordination to monitor the unit's last location.

⁵⁶ UNSECOORD (1997), § 44.

⁵⁷ von Brabant points out in, "Security Guidelines: No Guarantee for improved Security," Relief and Rehabilitation Network Newsletter #7, page 3.

⁵⁸ At the same time, however, the impact of guidelines should not be overstated, nor should they be

considered a complete panacea, as K. von Brabant points out in, "Security Guidelines: No Guarantee for improved Security," Relief and Rehabilitation Network Newsletter #7, page 3.

⁵⁹ These points, and several others addressing steps donors can take, are presented in much greater detail in ECHO, "Security of Relief Workers and Humanitarian Space," ECHO Working Paper, February 1998, Section 3.1

⁶⁰ Whitman, "Those That Have the Power to Hurt but Would Do None: The Military and Humanitarianism"

⁶¹ Wright, LTC Walter E., U.S. Army; and Fiegler, MAJ Ronald L. U.S. Army, "Civil Affairs Support in Operations Other than War," *Military Review*, October, 1993 page 27.

⁶² Dobbie, Charles, "A Concept for post-Cold War Peacekeeping," *Survival*, vol. 36, no. 3, Autumn 1994, page 121.

⁶³ See for instance Bettati, M. (1995), "L'accès aux victimes: droit d'ingérence ou droit d'assistance?", in "Law in Humanitarian Crises", vol. II, pp. 13-66, Office for Official Publications of the European Communities, Luxembourg. (1995) and idem in *Université de Genève* (1996), pp. 287-296

⁶⁴ Turbiville, Graham H. Jr., "Operations Other Than War: Organized Crime Dimensions," *Military Review*, January 1994, page 35.

⁶⁵ *Université de Genève* (1996), "Les Nations Unies et le Droit International Humanitaire - actes du colloque international", Geneva. de Courten goes on, however, to underline ICRC's wish to keep as far from them as possible.

⁶⁶ Freeman, Major General Waldo D. U.S. Army; Lambert, Captain Robert B., U.S. navy; and Mims, Lt. Col. Jason D., U.S. Army, "Operations Restore Hope: A USCENCOM Perspective," *Military Review*,

September 1993, page 61. MG Freeman was deputy commander in chief / chief of staff for U.S. Central Command during Restore Hope, Capt. Lambert and LTC Mims were planners on the CENTCOM staff during the operations. Mims served as a liaison officer to the U.S. DART team.

⁶⁷ Daniel, Donald C.F.; and Hayes, Bradd C.; "Securing observance of UN Mandates through the Employment of Military Forces," U.S. Naval War College, Newport, RI, 1995. Daniel and Hayes note that in Operation Turquoise, "The French wanted to act much like traditional peacekeepers whose function is to interpose themselves between parties who seek or might be tempted to massacre their opponents. They were quite ready, however, to enforce the UN's writ (under the UNIMIR mandate) if necessary in the protective zone they established." At the same time, however, they note that "The operation proceeded without securing the consent of factional leaders, or local military or paramilitary elements, page 19.

⁶⁸ *Ibid.*, page 6.

⁶⁹ Operations that involve only logistical support for humanitarian operations, without a security component, such as Operations Restore Hope (Eastern Zaire / Rwanda, 1994); and Operation Sea Angle (Bangladesh, 1991), to mention just two U.S. examples, fall beyond the scope of this paper.

⁷⁰ Minear, Larry "Humanitarian Action and Peacekeeping Operations," Background Paper for the UNITAR/IPS/NIRA Singapore Conference, Feb. 24-26, 1997. Journal of Humanitarian Assistance Available at: <http://www.jha.sps.cam.ac.uk/a/a024.htm> posted on 4 July 1997.

⁷¹ Nuijten, F. Dutch national practice research, "ICRC Study on customary rules in international humanitarian law," The Hague, 1997.

⁷² Peace Support Operations, Joint Warfare Publication 3-01, (2nd Study Draft) Chapter 6 - Operational Tasks; Journal of Humanitarian Assistance, available at: <http://www.jha.sps.cam.ac.uk/a/a423f.htm> posted on 20 December 1997. The document defines Peacekeeping (PK) as operations "undertaken under Chapter VI of the UN Charter with the consent of all the major parties to a conflict to monitor and facilitate the implementation of a peace agreement." And Peace Enforcement (PE) as operations that "are coercive in nature and undertaken under Chapter VII of the UN Charter when the consent of any of the major parties to the conflict is uncertain. They are designed to maintain and re-establish peace or enforce the terms specified in the mandate." See Chapter 1 - Strategic Background To Peace Support Operations.

⁷³ *Ibid.*, Chapter 1.

⁷⁴ OASD/S&R, background briefing, "Presidential Decision Directive-56: Managing Complex Contingency Operations," September, 1997, page 6.

⁷⁵ Roberts (1996), pp. 8, 29; see also pp 35-44 for a detailed analysis of experience with peacekeeping troops in a humanitarian role and the notion of "safe zones" and pp. 65-69 on armed protection.

⁷⁶ These estimates were based on aerial reconnaissance flights flown by British, Canadian and U.S. aircraft; while the aid agencies were getting reports from relief agencies and missionaries on the ground.

The inability of the reconnaissance aircraft to penetrate the triple canopy jungle covering most of the affected areas was more severe than most military analysts thought at the time.

⁷⁷ UNHCR, "A UNHCR Handbook For The Military On Humanitarian Operations," Geneva, First Edition - January 1995 page 1.

⁷⁸ de Courten, Jean; "ICRC Statement on Security Environment," presented to the Humanitarian Liaison Working Group, 24 April 1997, page 2.

⁷⁹ Dind., J., "Safety of Humanitarian Workers in Conflict Situations", ICRC, Geneva, 1997 § 6;

⁸⁰ *Ibid.*, § 7.1

⁸¹ IFRC (1997), sec. 1, ch. 2

⁸² UNHCR, "A UNHCR Handbook For The Military On Humanitarian Operations," section 6.1.

⁸³ Daniel, and Hayes, "Securing observance of UN Mandates through the Employment of Military Forces," page 7. The authors cite Operation Turquoise, UNITAF, Provide Comfort, and Uphold Democracy as successful as successfully inducing cooperation from belligerents.

⁸⁴ Petrie, Charles, "Learning from Operation RESTORE HOPE and UNOSOM II: Somalia Revisited," presented to the Africa Studies Program at Princeton University, April, 1995. Petrie's reference was specifically directed to the possibility of using U.S. Marines to intervene to break negotiations deadlocks.

⁸⁵ This possibility is also raised by Van Brabant, in "Cool Ground for Aid Providers," page 8.

⁸⁶ The authors are aware of several situations where such cooperation has occurred, including Somalia, Bosnia and Zaire.

⁸⁷ Comments to one of the authors.

⁸⁸ e.g. Belgian, French and US deployments to evacuate Zaire/Congo and US deployments to evacuate Liberia.

LEGAL DIMENSIONS OF RESPONSES TO COMPLEX HUMANITARIAN EMERGENCIES

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for

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I. Introduction

Recent humanitarian catastrophes involving Bosnia and Herzegovina, the Great Lakes region of Africa, Iraq, and Somalia have challenged the international community to devise new approaches to address human needs in the midst of societal disorder and conflict. Humanitarian perspectives have become intertwined with military strategies and political objectives. Aid agencies and soldiers have had to develop working relationships in which long-established traditions have been compromised. Under the media's ubiquitous spotlight, actors in such settings are scrutinized as they apply conventional mechanisms to extraordinary circumstances. Daunting challenges emerge in terms of ensuring justice, security and state-building. Solutions to "complex humanitarian emergencies" remain elusive.

The management of such emergencies depends upon the coordinated efforts of a number of political, military and humanitarian actors. The legal norms which govern the prevention, mitigation and resolution of complex humanitarian emergencies are derived from disparate sources -- refugee, humanitarian and human rights law, briefly summarized below. No integrated system currently exists to address the disintegration engendered on all levels of society that characterizes such emergencies. Recommendations are made to encourage the evolution of a comprehensive framework for international humanitarian action.

II. Protection of individuals externally displaced during emergencies

Population displacements occur as a result of a wide variety of factors -- war, systematic serious human rights violations, economic insecurity, and environmental disaster, to name but a few. Each individual affected by these forces has rights under general international human rights law. Depending on the causes of displacement, and whether these individuals remain in their countries or flee them, some of those displaced possess additional rights under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. Those who do not fall under the mandate of the United Nations refugee Convention and Protocol may nevertheless find protection under an applicable regional regime which provides broader coverage than would the highly-articulated definition of "refugee" employed by the UN treaties. Still others are effectively stateless, meriting the same protection from the causes of their displacement, but because they remain within the internal borders of their country, the realization of their human rights is often dependent on the dynamics of conflict. Finally, especially vulnerable groups, humanitarian relief workers, women and children, likewise merit special attention under various provisions of international law.

The 1951 Convention relating to the Status of Refugees and its 1967 Protocol provide the principal source of protection for the externally displaced who meet its refugee definition. Article 1 defines refugees as those outside of the home country, who, "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion is outside the country of his nationality [or last habitual residence for stateless persons] and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country".¹ Excluded from protection by the Convention are those who no longer need protection, e.g., because they have repatriated or settled

¹ 1951 Convention relating to the Status of Refugees, at Art. 1(A)(2).

elsewhere² or who are undeserving of protection because they have committed serious non-political crimes outside of the country of refuge, war crimes, or crimes against humanity.³ The method for determining refugee status, however, is left largely to the discretion of state parties under the Convention and Protocol.

Regional arrangements such as the Organization of African Unity's 1969 Convention on the Specific Aspects of Refugee Problems in Africa as well as the 1984 Cartagena Declaration on Refugees in Latin America, reflect the limitations of the United Nations treaties' definition which does not cover those who, even though displaced internationally by conflict, may not have a well-founded fear of persecution. For example, both regional arrangements utilize definitions that include general threats to life and liberty, measured by objective conditions of violence and disorder. Temporary protection arrangements adopted in the early 1990s in Western Europe for Bosnian asylum seekers have had such objectives. Similarly, the United Nations High Commissioner for Refugees (UNHCR) in its own operations, generally at the request of the UN Secretary General, General Assembly, and/or the Security Council, has moved beyond the Convention definition to provide protection and assistance to those who are in need of humanitarian assistance, both within their own countries and abroad.

While the right to seek asylum is recognized in the Universal Declaration of Human Rights, actual practice reflects a compromise with national interests. Articles 13 and 14 of the Universal Declaration articulate the parameters of the right to asylum, including the right to leave one's country, "to seek and enjoy in other countries asylum from persecution", and the right to return to one's own country voluntarily. These principles are further emphasized in the 1967 UN Declaration on Territorial Asylum, which asserts that the granting of asylum is a "peaceful and humanitarian act and that, as such, it cannot be regarded as unfriendly by any other State".⁴ There is no right, however, to obtain asylum in a particular jurisdiction.

The core refugee protection principle, that of non-refoulement, or non-return, is set forth in Article 33 of the Convention and Protocol, which prohibits the forcible return of refugees. Specifically, Article 33 provides that "No Contracting State shall expel or return (refouler) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group of political opinion." The Declaration on Territorial Asylum explicitly states that asylum seekers must not be rejected at the border, expelled or compelled to return to any state where he or she might be threatened with persecution.⁵ Similarly, the 1984 UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment echoes this proviso, requiring that "No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture".⁶ This principle is illuminated by Article 3 paragraph 2, which states that "for the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant

² *Id.*, at Art. 1(C).

³ *Id.*, at Art. 1(F).

⁴ 1967 UN Declaration on Territorial Asylum, preamble.

⁵ *Id.*, at Art. 3(1).

⁶ 1984 UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, at Art. 3(1).

considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights."

The principle of non-refoulement is categorical in character with limited arguable exceptions. The UN Declaration on Territorial Asylum specifically recognizes that when a state perceives its stability or security threatened, it "shall consider the possibility of granting to the person concerned, under such conditions as it may deem appropriate, an opportunity, whether by way of provisional asylum or otherwise, of going to another State."⁷ The references to large mass influxes both represent a governmental concern with potential threats to stability as well as an awareness of the need for a pragmatic approach which addresses the protection needs of individual asylum seekers.

In a move seen by many as a capitulation to increasingly restrictive asylum policies enforced by Western governments, UNHCR in 1992 proposed temporary protection as a response to the asylum seekers fleeing the conflict in Bosnia-Herzegovina. Many of the Bosnians actually met the criteria which would otherwise accord them full access to the asylum procedures under the Convention and Protocol definition. Nevertheless, UNHCR opposed the use of temporary protection, a remedy outside the Convention regime, which, while broader in terms of substantive coverage, confers much more limited protection in an attempt to encourage state compliance with the duty to receive asylum seekers.

III. Internal protection arrangements

While no international framework exists to systematically protect those who remain within their home countries as civilians in either international or non-international armed conflicts, internally displaced persons are protected under humanitarian law, both customary as well as under the provisions of the Geneva Conventions and its Additional Protocols I and II. Humanitarian law is based on the fundamental principle that "in any armed conflict, the right of the Parties to the conflict to choose methods or means of warfare is not unlimited."⁸ Derived from this is the rule that warring parties are obliged to ensure respect and protection for the civilian population, and to distinguish at all times between the civilian population and combatants and to direct their operations only against military objectives.⁹ The prohibition of attacks on civilian persons and property includes all acts of violence, whether committed in offense or defense.¹⁰ Civilian populations or individual citizens may not therefore be used as human shields to protect military objectives from attack.

Specific provisions relating to the creation of "safe havens" and "neutralized zones" permit the concentration of civilians in delineated areas established to furnish shelter and relief. Article 14 of the Fourth Convention, for example, provides that hospital and safety zones may be established in order to protect the wounded, sick, aged, children under the age of fifteen, expectant mothers and mothers of children under the age of seven. Additionally, "the Protecting Powers and the ICRC are requested to lend

⁷ 1967 UN Declaration on Territorial Asylum, at Art. 3(3).

⁸ Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts, June 8, 1977, at Art. 35 [hereinafter *Geneva Protocol II*].

⁹ *Id.*, at Art. 48.

¹⁰ *Id.*, at Art. 51(7).

their good offices in order to facilitate the setting up and recognition of such zones and localities."¹¹ Article 15 supplements these efforts with provisions for neutral zones which are established in fighting areas. The purpose of these zones is to provide shelter from the dangers of war for all persons without distinction, who are not taking part or who are no longer taking part, in hostilities and who do not engage in activities of a military nature while they remain in these zones. Such "safe havens" or "neutralized zones" are established by consent.

Article 4 of the Fourth Convention defines "protected persons" as those persons protected by the Convention who, "at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals." Article 27 of the Fourth Convention proclaims respect for the human person and the inalienable character of his or her fundamental rights: "...protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity." In cases of infringement of these rules, the state or warring party retaining control over the protected persons is responsible.¹²

The protections governing non-international conflicts are less substantial. Article 3, common to all four of the Geneva Conventions, regulates non-international armed conflicts occurring in the territory of a party to the Convention and applies to governments and, without according recognition to them, insurgents alike. Article 3 expressly prohibits the following acts: "violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; taking of hostages; outrages upon personal dignity, in particular, humiliating and degrading treatment; the passing of sentences and carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples." Humanitarian organizations such as the ICRC may offer services to the parties to the conflict.

Additional Protocol II reinforces the provisions governing non-international armed conflicts. However, Protocol II applies to a more limited scope of conflicts -- only those in which the insurgent party controls part of the national territory.¹³ Protocol II, therefore, does not cover inter-communal violence or other cases of internal disturbances. Protocol II extends the principal protections provided to the civilian population in international conflicts by Protocol I, such as the prohibition of attacks, of starvation and of displacement, except if required for military purposes. Access to impartial humanitarian relief must also be respected. Finally, humane treatment, defined in a similar manner as in common Article 3, must be extended to all persons who do not directly take part in hostilities.¹⁴

General international human rights law is also a source of protection for internally displaced persons. In 1992, a Special Representative of the Secretary General for Internally Displaced Persons (IDPs)

¹¹ Convention Relative to the Protection of Civilian Persons in Time of War, Aug. 12, 1949, at Art. 14(3).
¹² *Id.*, at Art. 29.

¹³ *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of non-international Armed Conflicts*, June 8, 1977, at Art. 1.

¹⁴ *Id.*, at Art. 4.

was appointed. The Special Representative has undertaken to draft "Guiding Principles on Internal Displacement" to be submitted to the UN Human Rights Commission in 1998. These guiding principles provide direction not only to the civilian authorities but also to the military authorities concerned with emergency responses. Although incorporation of the principles into an international convention is unlikely in the near future, these principles highlight significant gaps in the current legal regime. Paradoxically, questions concerning internally displaced persons remain conceptually within a state's jurisdiction, despite that state's inability or unwillingness to provide protection.

IDPs require specific protection measures by virtue of their often immediate proximity to a conflict and due to the particular nature of civil wars where warring factions often seek to legitimize themselves, secure strategic advantage, or pilfer humanitarian relief through manipulation, threats and violence towards civilian populations. As discussed above, victims of non-international armed conflicts may not, under certain circumstances, benefit from the protection of the Geneva Conventions. Additionally, general human rights law is difficult to apply to the particular vulnerabilities caused by new privatized forms of civil violence and unrest. Finally, the protection instruments of the refugee regime, most notably the core principle of non-refoulement, do not apply to the internally displaced, who are in theory dependent on national protection, even though it is illusory in practice.

Conscious of the numerous causes of displacement and the specific dangers to which the internally displaced are especially vulnerable, the Special Representative's concept of internally displaced persons is inclusive and general in scope. It applies to those who, while still remaining within the international borders of their country, have been forced to flee their homes "as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters."¹⁵ The principle of non-discrimination is articulated; IDPs are entitled to the same rights and freedoms as the non-displaced enjoy. Furthermore, the guiding principles do not alter the effect of provisions of international human rights and humanitarian law which apply generally to both the displaced and the non-displaced; notably they are not to be taken to inhibit the right to seek and enjoy asylum in other countries.¹⁶

The guiding principles assert the need to provide protection for individuals to prevent them from being forcibly displaced initially, during the process of displacement, and in order to secure the right to return to their habitual residences. Articulating the right to be free from displacement, the principles prohibit being uprooted through ethnic cleansing, armed conflict (unless the security of civilians so requires), large-scale development projects unjustified on public interest grounds and cases of disaster where safety and health reasons do not require civilian evacuation. Those who are particularly dependent or attached to their lands such as minorities, indigenous peoples, peasants and pastoralists are to benefit from the state's obligation to ensure respect for their rights.

The guiding principles are designed to protect against the types of violence often characteristic of civil wars, such as genocide, arbitrary executions, enforced disappearances, and use of civilian populations as shields for military objectives. Specifically, the principles provide for non-discriminatory distribution of humanitarian assistance and protection for humanitarian relief workers. Finally, they

¹⁵ *Proposed Guiding Principles on Internal Displacement*, at para. 2, drafted under the direction of the Representative of the Secretary-General on Internally Displaced Persons.

¹⁶ *Id.*, at Principle 2(2).

provide guarantees regarding the displaced's "right to return voluntarily, in safety and with dignity,"¹⁷ to their homes or their right to resettle in another part of the country and be free from discrimination upon their return.¹⁸

IV. Humanitarian Assistance

Awareness of the inefficacy of the provisions within the Geneva Conventions which concern protection of humanitarian relief workers led the General Assembly in December 1994 to propose a Convention on the Safety of UN and Associated Personnel,¹⁹ which currently awaits entry into force. The definition of those meriting protection is expansive, applying to a broad range of personnel involved with UN operations. Persons deployed by the Secretary General as "members of a military, police or civilian component of a UN operation,"²⁰ as well as experts sent on missions by the UN or its specialized agencies fall under the ambit of the Convention. Additionally, the Convention extends coverage to the more controversial category of "associated personnel", or those who are not under direct contract with the UN.²¹ This provision refers to individuals who are not appointed by the UN or employed by them directly but are instead assigned by national governments or intergovernmental organizations or engaged by a humanitarian non-governmental organization, whose presence in the conflict area is agreed to by the UN. Finally, the personnel, both UN and associated, must be involved with a UN operation to maintain or restore peace and security, or the Security Council or the General Assembly must declare that there is an exceptional risk to the safety of the personnel facilitating the operation.²²

The Convention introduces protection mechanisms noticeably lacking under present international law, such as a duty to prevent and jurisdiction to punish. Together, Articles 7 and 11 establish the duty of the states to prevent crimes against protected personnel whether the personnel are stationed on that state's territory, or if the host state is unable or unwilling to act. To this end, state parties are obliged to cooperate through the exchange of information and coordination of any measures which are likely to prevent the commission of crimes against the UN and associated personnel. The Convention extends its reach even further, by establishing a duty to punish through the extension of jurisdiction over crimes against this protected class of personnel. "Each State Party is required to establish jurisdiction over crimes allegedly committed in its territory or by its nationals, and permitted to establish jurisdiction over crimes committed against its own nationals or with the attempt to influence its actions."²³ Of course, these

¹⁷ *Id.* at Principle 28.

¹⁸ *Id.* at Principle 29.

¹⁹ See generally *Protecting Aid Workers: Prospects and Challenges*, Open Society Institute's Forced Migrations

Projects Special Report, September 1997.

²⁰ *Convention on the Safety of United Nations and Associated Personnel*, opened for signature Dec. 9, 1994 at Art.

1(a)(i).

²¹ *Id.* at Art. 1(b).

²² *Id.* at Art. 1(c).

²³ *Id.*

mechanisms, like other mechanisms of international law, depend upon reliance on states for enforcement of violations for which they sometimes may be complicit.

The protections granted humanitarian relief workers and others are further weakened by two explicit limits on the Convention's applicability. The coverage only extends protection to personnel with a contractual link to the UN, leaving aside the rights of all other humanitarian workers who have no formal relationship to the UN. Also, Article 2 excludes actions from the Convention's reach which would otherwise be covered by humanitarian law, or those actions authorized by the Security Council under Chapter VII of the Charter in which any of the personnel are engaged as combatants.

V. Responsibilities with respect to especially vulnerable groups

Additionally, international humanitarian and human rights law provide heightened protection measures for especially vulnerable groups -- with women and children as the most prominent beneficiaries. These matters should be considered in all phases of an emergency response.

Special protection measures for women and children are provided in both Additional Protocols of the Geneva Convention. Moreover, the 1974 Declaration on the Protection of Women and Children in Emergencies and Armed Conflict²⁴ criminalizes all means of repression and cruel and inhuman treatment of women and children in the course of military operations or in occupied territories.

The dangers to psychological, physical and economic security posed by threats and acts of discrimination and sexual violence to which women refugees are uniquely subjected were not explicitly addressed until the General Assembly adopted the 1993 Declaration on the Elimination of Violence Against Women. Lacking the force of law, this statement is nonetheless an important recognition of the states' duty to eliminate the dangers that render women vulnerable during the abnormal circumstances which generally attend displacement. It offers an important framework for viewing violence against women which is defined in Article 1 as "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life."

Children benefit from the 1989 UN Convention on the Rights of the Child (CRC), now ratified by more than 180 states, which builds on earlier provisions in international refugee, humanitarian and human rights law. Even so, as concerns refugee children, the legal basis for protection is vague and linked essentially to the notion of providing for family reunion. The 1951 Convention merely recommends measures to promote family unity, while the CRC in Article 22 reverts back to the Convention and other international human rights and humanitarian instruments as the source for its provision that state parties are bound to provide "appropriate protection and humanitarian assistance in the enjoyment of applicable rights."

Additional Protocol I of the Geneva Conventions offers one of the strongest statements asserting the rights of children to special protection: "Children shall be the object of special respect and shall be protected against any form of indecent assault. The Parties to the conflict shall provide them with the care

²⁴ UNGA res. 48/104, 20 December 1993.

and aid they require, whether because of their age or for any other reason."²⁵ The 1966 Covenant on Civil and Political Rights obliges states to protect the family and the 1966 Covenant on Economic, Social and Cultural Rights instructs that "special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions."²⁶

VI. Relationship to state-building

A. Transition after emergency

For countries which are struggling to rebuild their social and political frameworks and reassert the rule of law, international human rights standards often carry more weight than national constitutions which often lack legitimacy and respect from both factions within a country and the international community. The International Bill of Human Rights, consisting of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, together with its two Optional Protocols, set forth the fundamental rights and freedoms to which all individuals are entitled. The protections embodied in these instruments should be incorporated into all phases of the military and civilian components of state-building endeavors.

In particular, these human rights instruments provide the foundation for any country seeking to rebuild a political, social and economic framework in the wake of a complex humanitarian emergency which has ravaged all levels of society. The equal right of men and women to the enjoyment of all human rights is mirrored in Article 3 of both Covenants. Likewise, Article 5 protects against the unwarranted limitation of any human right or fundamental freedom and against misinterpreting any provision of the Covenants as a means of justifying infringement of a human right. The right to a nationality declared in Article 15 of the Universal Declaration of Human Rights may have particular application to citizenship questions in situations of state secession.

B. Civil and political rights

The International Covenant on Civil and Political Rights establishes the fundamental rights to life and freedom from "cruel, inhuman or degrading treatment or punishment"²⁷ including slavery, servitude, compulsory labor, and arbitrary arrest or detention. In measures particularly relevant to the return of displaced persons from both within their own country and abroad, the Covenant provides for freedom of movement and freedom to choose a residence and for limitations on the expulsion of aliens lawfully in the territory of a state party. It further provides for the fair and equal treatment of all individuals by the justice system. The Covenant recognizes freedom of thought, religion, opinion and expression, while at the same time outlawing war propaganda and incitement of national, racial or religious hatred that leads to discrimination, hostility or violence. It provides for the right of peaceful assembly and freedom of association. It recognizes the right of men and women of marriageable age to marry and to raise a family, as well as the principle of equality between spouses in decisions regarding marriage and its dissolution,

²⁵ *Geneva Protocol I*, at Art. 77(1).

²⁶ *1966 International Covenant on Civil and Political Rights*, at Art. 23(1) and *1966 International Covenant on Economic, Social and Cultural Rights*, at Art. 10 (3).

²⁷ *1966 International Covenant on Civil and Political Rights*, at Art. 7.

and establishes measures to protect the rights of children. The Covenant acknowledges the right of every citizen to participate in public affairs through the rights to vote and be elected, and to have equal access to public service in his or her country. Finally, in Articles 26 and 27, the Covenant provides for equal protection of the law and the protection of the rights of ethnic, religious and linguistic minorities in the territories of states parties. The state's obligation to enforce these rights is unqualified except for reasons of national security and public order. Of course, these may be precisely the periods when respect for international human rights standards is needed most.

C. Economic, social and cultural rights

The International Covenant on Economic, Social and Cultural Rights shares a common framework with the Covenant on Civil and Political Rights in several essentially identical introductory provisions followed by a respective list of entitlements. The force of those rights and approach to their enactment and enforcement, however, differ greatly. States are obliged to respect the following rights: the right to work, to employment under just and favorable conditions, to form and join trade unions, to social security and insurance, to protection and assistance for family, to an adequate standard of living, to the highest attainable standard of physical and mental health, to education, to culture and to benefit from scientific progress. However, these rights are not absolute insofar as states are allowed to "take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of these rights."²⁸ Although this provision may be interpreted to mean that a state may delay the enactment of appropriate legislation until it has achieved a certain measure of economic development, the enactment of specific provisions such as those regarding non-discriminatory access to rights is expected to warrant priority treatment.

D. Repatriation

As discussed above, refugees have a right not to be forcibly returned to a situation in which their life or freedom is threatened. Counterpoised against the right to non-refoulement is the right to return to one's home country, recognized in both refugee and human rights law. The right to return is made explicit in Article 13 of the Universal Declaration of Human Rights, which states that "everyone has the right to leave any country, including his own, and to return to his country." Article 5 of the 1965 UN Convention on the Elimination of All Forms of Racial Discrimination and Article 12 of the Convention on Civil and Political Rights reinforces the right to return.

Furthermore, the refugee Convention and Protocol treats voluntary repatriation as a ground upon which the international protection mechanisms cease to apply. Cessation occurs when a refugee has "voluntarily re-availed himself of the protection of the country of his nationality" or "[h]e has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution"; or, if stateless, "he is, because of the circumstances in connection with which he has been recognized as a refugee have ceased to exist, able to return to the country of his former habitual residence."²⁹ The most explicit enunciation of the right to voluntary repatriation is set forth in Article V of the 1969 OAU refugee treaty. Emphasizing the voluntary character of return, it calls for collaboration

²⁸ *1966 International Covenant on Economic, Social and Cultural Rights*, at Art. 2(1).

²⁹ *1951 Convention relating to the Status of Refugees*, at Art. 1(C)(1), (4) and (6).

between the country of asylum and the country of origin regarding the safety of the returning refugee, and cooperation between the home and asylum countries, together with voluntary agencies and international organizations, to provide assistance to facilitate the return process.

Voluntary repatriation, as opposed to third-country resettlement and local integration in the country of asylum, has been increasingly presented as the long-term solution preferred by states.³⁰ UNHCR's statute dictates that one of the responsibilities of the High Commissioner is to assist "governmental and private efforts to promote voluntary repatriation or assimilation within new national communities."³¹ This language reflects the inherent tension between the voluntariness requirement of the refugee's decision and external pressure or even coercion by host countries. Often, when refugees repatriate, they make decisions under the pressure of host countries and the returns are facilitated operationally by UNHCR. Refugees' rights may thus be compromised.

Promoting return of refugees to countries where peace and stability have not been achieved can obviously undermine protection. This issue is implicated in the concept of temporary protection, a mechanism adopted by host countries as a means of avoiding granting full rights of asylum to refugees who fled their countries en masse. Temporary protection is generally linked to the provision of "safe return when conditions permit."³² The host state is generally bound by international human rights provisions, yet no safeguards may exist which bind the host country to ensure that conditions in fact are sufficiently safe to warrant a decision by the authorities of the host state that refugees must return because they no longer merit international protection.

Issues of repatriation can often hinge upon the resolution of questions concerning property rights. The Universal Declaration of Human Rights in Article 17 provides that "[e]veryone has the right to own property alone as well as in association with others", and that "[n]o one shall be arbitrarily deprived of his property." Regional human rights treaties in Europe, the Americas and Africa contain somewhat more specific, but qualified provisions respecting property as a human right. Ordinarily, property rights issues, even those concerning refugee repatriation, are within the province of municipal law.

E. Prevention of renewed conflict

For any country emerging from conflict, transition from war to lasting peace depends upon reconciliation and justice. In most countries, recrimination, revenge and fear continue long after armed conflict has dissipated. In the cases of Bosnia and Herzegovina and Rwanda, war crimes tribunals have been created as means of facilitating accountability. Although daunted from the start by budgetary and administrative obstacles, these courts serve important symbolic value both within the conflict areas and abroad, serving as unambiguous signals that impunity with respect to war criminals will not be tolerated.

³⁰ See generally *Handbook on Voluntary Repatriation: International Protection*, UNHCR, Division of International Protection, Geneva, 1996.

³¹ UNGA res. 428(V), annex, para. 8(C).

³² Executive Committee General Conclusion on International Protection (1994): Report of the 45th Session: UN doc. A/AC.96/839, paras. 19(r), (u).

Created by Security Council resolutions,³³ the International Criminal Tribunal for the former Yugoslavia and International Criminal Tribunal for Rwanda have been instituted only on an *ad hoc* basis. To extend the international community's resolve in bringing all war criminals to justice, under the auspices of the UN, governments have made rapid progress towards drafting a treaty establishing a permanent International Criminal Court. Regardless of whether victims were subject to abuses within their own country, and whether the government has an interest in protecting the perpetrators, each individual has a right to a fair trial and due process of law. An international criminal court, vested with the jurisdiction and enforcement procedures reflecting a robust and effective mandate, could help convince recalcitrant and even culpable states to comply with international standards.

While justice restrains the visceral urge to seek vengeance, reconstruction and long-term peace depends upon society's ability to overcome the tensions and hatreds which fueled the conflict. All forms of social and civic actors must be encouraged in their efforts to develop a tolerant society which can resist such divisive forces. For peace to truly take root, it must do so at the level of civil society. Education, the media, religious groups and non-governmental organizations (NGOs), entities protected by the internationally-recognized freedom of association, can all contribute to sustainable reconciliation and the encouragement of open societies and rule of law -- the optimal strategy to prevent the renewal of conflict.

F. Coordination

Complex humanitarian emergencies concern societies which have experienced multi-faceted forms of destruction. Both during the conflict itself and in its aftermath, no clear framework exists for mitigating the damage and facilitating rehabilitation. Individuals and groups are vulnerable to the vagaries of an international system which defines rights based on whether one has remained behind in one's country or sought asylum abroad, and on principles which often allow subtle coercion to subvert individual choice and liberty in practice. The absence of a comprehensive legal regime and institutional framework makes effective coordination all the more important. Humanitarian relief workers, peace-keeping forces, human rights monitors, and the media must act in concert to promote respect for human rights.

States, international institutions, and NGOs should share information and analysis in order to devise the most effective strategies for rehabilitation and the development of civil society. Article 99 of the UN Charter endows the Secretary General with the authority to warn the Security Council of other bodies of imminent crisis. To serve this purpose, the Office for the Coordination of Humanitarian Affairs, formerly the Department of Humanitarian Affairs, has developed a fledgling early warning system which analyzes information from various UN agencies and additional sources for advance signs of crises which necessitate humanitarian responses. Another instrument in the UN's rudimentary early warning system is the Department of Peacekeeping Operations Policy and Analysis Unit, whose scope concerns only those situations where a UN peace-keeping operation is presently stationed. Such efforts must be strengthened to encourage effective exercises of political will. Political leadership will be required to realize a true humanitarian imperative in dealing with the new world disorder. This is a sacred task of the international community.

V. Conclusion

³³ SC res. 827, 25 May 1993 and SC res. 955, 8 November 1994.

The current legal framework to address complex humanitarian emergencies and their aftermath is inadequate. Coordinated international action, including by the military and civilian components of emergency responses, is needed not only to address such emergencies and societal transitions, but also to point the way toward a stronger legal system to resolve issues and prevent the causes of forced migration in the future. Until such a framework is achieved, insecurity and hardship will continue.

LANDMINES:

PEACEKEEPING

AND

TECHNOLOGY

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Discussion Paper
for

Conference On
Civil-Military Relations in Complex Humanitarian Crises
“*Forging Peace*”

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I. Summary

Recent changes in the nature of peacekeeping operations are dramatic and significantly increase the challenges faced by those who must operate in this increasingly dangerous environment. No longer is it the norm for a select few Blue Helmeted soldiers to stand watch in observation towers and report treaty violations to their higher headquarters. The conflicts that pull our nation's soldiers and resources into harm's way are increasingly complex political and humanitarian disasters where nation states fail and the very fabric of government and society are torn apart. Increasingly, these conflicts are internal and threaten the survival of many thousands of people, subject to their own internecine brutality. New technologies for war have made this brutality ever more effective and created the need for other technologies to help tomorrow's peacekeepers survive while they return these countries to a stable and peaceful condition.

Not the least of these debilitating new technologies is that of the simple, cheap and very deadly “Hidden Killer” or anti-personnel mine. Millions of these mines, worldwide, claim the lives and limbs of many peacekeepers in almost every operation. They also kill or maim an estimated 500 people a week (26,000 a year), mostly innocent civilians.ⁱ Technology helped create the inexpensive AP mine and technology is needed to help us overcome the horrendous impact it is having on the world today. As discussed later, even the presence of very few mines can deny significant quantities of land from use. In fact, estimates at the State Department are that because of the tedious, time consuming and manpower intensive process of using 1950s technology to clear the land of these mines, it can cost considerable orders of magnitude more to remove a mine. More importantly, to reclaim the land for use can take literally decades to return a country to normal.ⁱⁱ The Department of State is currently supporting a demining program in Bosnia that estimates it will cost approximately \$5,000.00 or more to clear each contaminated or suspect contaminated acre.ⁱⁱⁱ

The United Nations Security Council recently held a session on “Demining in the Context of UN Peacekeeping”, where the following Presidential Statement illustrated the level of concern shared by over 35 national delegations:

“The Security Council notes with great concern that the widespread use of anti-personnel mines, is one of the most critical challenges facing the international community today, and that, despite all international efforts, their indiscriminate use especially in conflict areas is still on the increase. In addition to the thousands of civilian lives that those mines take every year, and the thousands more injured, such mines also constitute a serious impediment to major elements of UN peace-keeping operations such as the establishment of freedom of movement, the holding of free elections and the distribution of humanitarian aid. They also are a continuous threat to life and health of United Nations military and civilian personnel.”

-----Demining activities should, as much as possible, make use of modern mine clearance technologies and specialized equipment, which will considerably enhance the mine clearance capacity of affected countries. Efforts aiming at the creation of indigenous demining capabilities and training programs should attach particular attention to this aspect.^{iv}

This paper describes the nature of the impact and suggests some directions that research and testing could take to alleviate the debilitating effect of the anti-personnel landmine in peacekeeping operations.

II. Bosnia

Bosnia had an original estimated 2 -3 million landmines infecting thousands of square kilometers in all ethnic areas. The United Nations Protection Force (UNPROFOR) experienced more than 230 casualties and 20 deaths from 1992 until NATO's Implementation Force (IFOR) took over in December 1995. Since that time, IFOR has experienced more than 60 casualties of its own with 10 dead, to include the first US victim of this operation. Clearing mines for self-protection has been essential and supervising the Former Warring Factions has required movement through questionable areas. Indeed, almost all casualties have been in areas previously believed to be "cleared" by these factions. These NATO forces have the best technology available to western nations today, but are still at considerable risk as they carry out day to day activities. Many of the mines are plastic and contain very little metal in their construction. Since the metal detector is the only standard means to search for mines, it is a very challenging task. Many of the mines have been booby-trapped in ingenious ways.^v

The US Department of State and other international organizations are working to establish indigenous organizations that can clear the landmine infected areas to a humanitarian standard of 99.6%^{vi}. Current estimates using available technology indicate that it will take thousands of deminers several decades or longer to completely clear the aftermath of this conflict.

III. Cambodia

Cambodia's landmine contamination dates from the Vietnam conflict in the early 1970's and is estimated to be in excess of 8 million. Cambodia has the highest percentage of amputees per capita, with one for every 236. Many Cambodian civilians are killed or maimed each month.^{vii} The UN Transitional Authority in Cambodia (UNTAC) also experienced debilitating casualties from landmines and ultimately formed a Mine Clearance Training Unit that ultimately evolved into the Cambodian Mine Action Center (CMAC). The United States and others currently support this organization with equipment, training and funding. With more than 1,500 trained and equipped deminers, it is estimated that using current technology, it will take more than 300 years to clear the country.^{viii}

IV. Georgia

In its early months of operation, the UN Observer Mission in Georgia (UNOMIG) almost stopped all peacekeeping activities in critical areas due to the presence of landmines. It is their mandate to monitor and patrol the cease-fire areas and yet attempts to do so have met with injury and death. As in other situations, civilians and humanitarian workers are often significantly inhibited in their work and are also subject to maiming or death. Chapter VI operations of this type, where peacekeepers are only lightly equipped, require the assistance and support of the former warring parties. When these parties lack the capability to locate or clear their own mines, then considerable resources must be spent by the UN and others to accomplish it for them.^{ix}

These UN peacekeeping operations clearly illustrate the nature of the challenge posed by landmine presence in today's conflict areas and beg for technological assistance to save lives and return these countries to stable condition. The following sections discuss some of the technological challenges to humanitarian landmine removal in the context of this environment.

V. Military vs. Humanitarian Demining

Military demining has as its basic tenet, the requirement to protect the force within the parameters of acceptable loss. Because direct fire weapons cover minefields by doctrine, military demining devices most often are designed to quickly breach through these minefields to limit friendly forces exposure to this fire. Machines such as flails, rollers and earthmovers rapidly explode, destroy or push aside the mines to allow the friendly relative safe movement through the gap created. Some mines may be left, but the occasional loss to armored vehicles is considered acceptable in a combat environment. This approach is a trade off to speed and reduction of exposure to enemy fire.

Peacekeepers and their brothers, the humanitarian deminer, can not accept these casualties and therefore must have demining devices and technologies that reach much higher standards of near perfect detection and removal of mines. The technological approach to each of these demining situations can have complimentary aspects, but often do not. These different tasks more often require very different equipment. This equipment and the related characteristics can best be described in terms of their ability to detect or ultimately remove the mine from the ground.

VI. Detection

Detection not only allows the deminer to find the location of the mine, so that it can subsequently be destroyed, but also is a critical component for mine awareness. Finding, marking and then informing the populace or the peacekeeper to avoid the contaminated area can initially save many lives. Accurate databases showing the location of mine fields are a critical by product of effective preliminary minefield survey work. These databases then serve to keep a record of the information and assist in the planning and management of the demining effort. Reliable detection tools are critical to this survey process and data base refinement.

Perhaps as important as the technical capability for a device or method to detect mines is the psychological aspect of the confidence that deminers and demining program managers have in these devices. The metal detector has for some time been the only universally acceptable device to insure that all or almost all the mines and unexploded ordnance (UXO) are found. Most mines have at least some metal content and the newest metal detectors will even find the small firing pin in the otherwise non-metallic body. This of course requires you to react to every metal detection, however slight, and then probe with a slim rod for the solid object, often one or more feet underground. More often than not, the detection is of some other metal object than a mine, a "false positive", and you waste considerable time probing, digging and removing a piece of shrapnel, metal waste or other metallic object from the ground. The only way to be certain that there are no mines is to remove "all" metal to a depth agreed upon for the local circumstances.

These frequent "false positives" with this method of detection, require a slow and manpower intensive search for a "few needles in the haystack." Thus the need for thousands of deminers over decades, all the while casualties continue to mount and very large sums of money are spent on salaries and equipment.

Often an area thought to be mine contaminated because of reports or a single incident, thought to be a mine, can not be used by peacekeepers or civilians for needed duties or commerce.² As mentioned above, survey tools are needed to find the presence of mines to preclude significant searching in areas that prove not to have mines at all. We need tools that will help to find the right "hustack" before wasteful looking of the "few needles."

In the mean time, the social disruption continues as transportation, power, water, and other infrastructure assets are denied to the economic process. The people of these countries view their own governments as impotent or inept in their attempts to solve these problems.

There are many new ideas for solving this problem of detection, radar, infrared, sonar, microwave etc. None have so far proven to be the magic tool to end all of our problems. Each has capability and limitations unique to the soil, type of mine and weather conditions, but none have the confidence of the deminer practitioner in the field. The common challenge issued by deminers in the field to new ideas and methods is "Will you play football on the field, just after you have used your device to verify that it is clear of mines?" It is understandable that deminers have a healthy sense of skepticism about new ideas, as their own lives would be at risk in their use. This leaves the technology developer with a very heavy burden of proof that new devices are reliable. The reality is that, for the time being, we will need to move cautiously ahead in the testing and fielding of these technologies in a way that wins the confidence of the people that must put their limbs and lives on the line.

In fact, it is not just important to win the confidence of deminers but ultimately that of the people that will use the land declared safe after the searching. If just one mine is found after an area is declared to be clear, that confidence is broken and farmers will not farm, construction workers can not repair damage, and general commerce will not resume. Thus even the perception that mines are present will deny the land to use.

These new technologies for demining need to be approached from the perspective of adding new tools to the bag of options that deminers can use in concert with their proven tools and techniques. Current tools and methods are also used because they are cost effective or readily available and sustainable in the local environment. New devices must also meet this requirement or demonstrate such a dramatic improvement in the result that they are worth the additional short-term costs to compensate for the long-term expense of more personnel and longer time frames.

VII. Removal

Humanitarian demining efforts today require, for political, practical and safety reasons, that mines be destroyed in place. No donor wants to pay for a mine relocation program. Donors rightly insist that the mines are destroyed, not be reprinted or stored for future use. This has been a basic tenet of the USG program from the beginning. "Train the trainer" programs teach only this method of demining. It is also critical that the peacekeeper knows he will not oversee the removal of a threat one-day and then discover it the next day in his back yard. This is especially the case when belligerents are removing their own mines. It has also been shown that it is generally safer to destroy the mine in place rather than risk an unstable, or booby trapped mine going off during the difficult process of defusing or "render safe" operations. Destroying in place is also a much easier process to teach and supervise, as you do not need to teach each deminer to be an explosive ordinance demolition (EOD) expert.

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With this method, however, comes the added requirement to acquire, store and use explosives to destroy the mine. They can be expensive, politically sensitive to import and difficult to guard. This begs the need for new technologies that can do the destruction in a safer, cheaper and quicker manner. At the same time, the removal can not be in a way that leaves the ground unusable for its intended purpose. For example, some demining machines being tested literally chew the ground to a depth below the mine in order to pulverize it. If the ground is intended for agricultural use, this could degrade the topsoil's viability for years to come. Chemical means of destruction could also have the effect of contaminating the ground in ways that are inappropriate for the intended purpose or even pose an environmental hazard to the population. There must be adequate attention paid to avoid the unintended consequences.

VII. Conclusions

It is imperative that advances are made to provide the deminer and the peacekeeper better tools to clear landmines and protect them from the risk of operating in this new environment. These tools must meet the exacting standards of near perfect performance, since the impact of a single missed mine in a "cleared area", subsequently destroys the confidence of the population and can have significant psychological and political impacts. The peacekeeper is either a casualty or is limited in how he or she can do the job. Most importantly, the country can not return to a normal condition.

There is a growing concern and interest in the scientific and demining communities to find answers to these problems. At recent conferences in Zagreb, Croatia, an internet clearinghouse was established to allow these participants a medium for this interchange. It was a modest but useful first step, however more is needed. Additional conferences and meetings, such as the one in Zagreb are critical to ensure that a synergy results from the coordinated efforts of a variety of experts contributing to the solving of this problem of "Hidden Killers" in today's peacekeeping arena.

The commercial world should also be more widely included in the search for useful technologies and tools but need the guidance and direction of professionally done requirements analysis and derivative "statements of requirements." CMAAC in Cambodia is beginning this process of defining the specific technology needs for their environment but other regions need the benefit of this model and in less developed mine action programs, they may need outside assistance.³ With this detailed definition of the needed tools, commercial technology can be directed to that need and the right and maintainable tool can be developed. Investors, as well as donors, want to know that they are spending their money on the right device for the right conditions. A professional done requirements analysis, in each region will not only encourage financial support, but will also insure that the best and appropriate technology will be delivered to the deminer in the field.

ENDNOTES

¹ United States Department of State, Bureau of Political Military Affairs, Office of International Security And Peacekeeping Operations, *Hidden Killers* (Washington: Department of State Publication, Dec. 1994), p. v. Editor's Note: The estimate of 110 million mines worldwide was arrived by a survey done through US Embassies and United Nations operations. In recent years, demining operations and better on the ground surveys indicate that there are fewer mines actually in

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the ground than originally reported. The relevant issue is, however, that significant and critical resources are denied impoverished populations and even if demining proves the ground to be mine free, the fear of their presence can be just as debilitating in a social and economic sense.

ⁱⁱ *Ibid.*, p. 1.

ⁱⁱⁱ This figure is calculated on the average clearance rate of a 30 man demining unit and then considers the equipment and salary costs to sustain the operation while it clears the acre. This figure is not intended to suggest that this is the norm for all demining situations, but rather to show the order of magnitude of the cost. It is important to note that measures of effectiveness for demining can not be based on the cost to remove a mine, as densities of contamination and other variables are too great.

^{iv} United Nations Security Council Meeting #3689, *Presidential Statement*, 15 August 1996.

^v The author is currently responsible for the establishment of a demining program in Bosnia, which includes contract, indigenous deminers and a US Military training program for humanitarian demining.

^{vi} This is a commonly accepted standard by which humanitarian demining operations are measured. It is an arbitrary number intended to enforce the notion that a meticulous process will be followed to clear all that the best technology will allow. Currently that is the ferrous metal mine detector and requires all metal detected, to be removed to an agreed upon depth at a given date and time. This is often a contract requirement for government to demining operator as a measure of effectiveness.

^{vii} United States Department of State, *Hidden Killers*, p. 46.

^{viii} On a recent assessment trip to Cambodia, the author observed CMAC and NGO operations that illustrated the challenges of attempting to demine in heavy undergrowth with only basic tools such as axes and lawn shears to remove the vegetation so that mines could be removed. These areas are reclaimed one foot at a time in a tedious and time-consuming process. A recent CMAC assessment lists approximately 150 casualties each month.

^{ix} Ambassador R. Inderfurth, United States Mission to the United Nations, Speech before the Security Council Meeting #3689, 15 August 1996.

^x The Sarajevo tramline from the center of town to the suburb of Ilizda could not be repaired for over six months, after the implementation of Dayton, because the people believed it was mined. When competent deminers were finally able to check the area, it was found to have only one unexploded device along a several kilometer stretch. Likewise, in Angola, the perception of heavily mined roads stopped the deployment of UNAVEM peacekeepers for several months. Mines were present in some areas but very long stretches could not be used due to the unknown situation.

^{xi} In a recent trip to Cambodia, the author reviewed several statements of requirements prepared by CMAC for the development of needed tools to assist the clearing operation. This is the only comprehensive effort of this type being developed today.

HEALTHCARE CHALLENGES FOR THE MILITARY IN COMPLEX HUMANITARIAN CRISES

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for

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Preface

A senior British commander was tasked to give evidence to a Parliamentary Committee on the outcome of his mission as part of the US-led, Operation Provide Comfort in Northern Iraq in 1991. When asked what he believed was the single-most important contribution his forces had made in attempting to alleviate one of the major calamities of the decade, he answered "simply the ability of my Marines to convince the refugees not to foul the streams that provided their drinking water and to boil their water before they drank it"¹.

I. What Is a Complex Humanitarian Emergency?

A complex humanitarian emergency can be defined as a man-made disaster brought about by protracted violent conflict, complicated by the effects of long-term social breakdown. It is normally slow in onset, usually becoming an international concern only when the initial man-made crisis is transformed into an internationally recognized catastrophe, occasionally by large-scale atrocities and genocide but more regularly by the effects of famine or epidemic disease. It is estimated that between 250,000 and 500,000 die every year from preventable causes such as starvation, during complex humanitarian crises. The principal casualties of such disasters are the weakest members of society, young children, their mothers and the aged.

Complex humanitarian emergencies, like the disastrous aftermath of the Gulf War that afflicted the Kurdish people of northern Iraq, have become an increasing phenomenon at the close of the 20th century. So much so that some have concluded that such crises "outrank natural disasters like earthquakes, hurricanes and floods in the scale of death, disease and long-term disability they cause"². Whereas this may be debatable, it does appear that complex humanitarian emergencies are more common and that their impact on the rest of the world is greater than ever before.

That this should be so is in part perception and in part reality. The perception that such crises are increasing in number and scale is due to a collection of factors. First amongst them is the ever-increasing ability of the global mass-media to bring the most graphic and harrowing images of such disasters, in almost real-time, into the homes, offices and everyday lives of people the world-over. The result is to affect the public opinions and emotions of societies far removed from the geographic realities of the crisis and in turn to shape the actions of governments and international bodies.

Secondly, in the increasingly complex and seemingly chaotic post-Cold War world, these disasters appear to confirm the belief of many, that the world is embarking on an epoch of extreme unpredictability, characterized by such events as acute conflicts over limited natural resources, the breakup of nation states and of ever-increasing social instability. In the ever more "connected" global community, the consequences of such disasters are more likely to have impact far outside the local region. The effect may be indirect, such as the loss of economic markets or restricted access to vital raw materials, for example precious minerals in the former Zaire. Or it may take a more direct and dramatic form such as the mass migration of peoples to countries and regions unable or unwilling to accept or succor them.

¹ Brigadier Robin Ross OBE, Commander 3 Commando Brigade. Oral evidence to the Parliamentary Defence Committee, September 1991

² S Hansch and B Burkholder, When Chaos Reigns, Harvard International Review Vol XVIII No 4, Fall 1996.

Finally, in the developed nations of the world in particular, the specter of nuclear armageddon is rapidly being replaced by the threat of a world afflicted by new and re-emerging diseases. Complex humanitarian emergencies fuel these fears, as they are almost always accompanied by epidemics of fearful illnesses like bubonic plague, typhoid and cholera - diseases now dim in the memories and cultural lore of most advanced societies. The possibility that these disasters might act as foci for the spread of epidemic diseases on a global scale or, worse still, accelerate the world-wide spread of new and even more dreadful diseases such as AIDS and Ebola, is an ever present fear, if not a reality.

II. What Are The Characteristics Of A Complex Humanitarian Crisis?

Hansch and Burkholder attribute four principal characteristics to complex humanitarian emergencies³. First that these crises are long and recurring. Unlike natural disasters, complex emergencies are usually lengthy, with mortality rates slowly mounting until a sudden catastrophic event such as an outbreak of highly infectious and lethal disease brings global awareness. With this comes the designation, Complex Humanitarian Emergency and usually some form of action from external organizations such as international disaster relief agencies. The crisis in Angola, for example, has seen over two decades of protracted low-level conflict punctuated by epidemics and occasional large-scale atrocity.

Access to the most vulnerable populations is frequently restricted. In complex emergencies civilians most frequently bear the brunt of famine and disease. Displaced persons and those who would provide relief alike are hindered by the characteristic breakdown of social infrastructure. Communications by telephone, radio and other forms of the media are regularly non-existent and what is available is commonly used for purposes of propaganda and disinformation. Railways are invariably disrupted and roads, where they exist, are mined, severely limiting the efforts of relief agencies and the ability of refugees to travel for help.

Even where reconstruction of such facilities as clinics, hospitals and fresh water supplies can be achieved, these efforts are many times futile because they are destroyed as fast as they are built. In countries like Afghanistan and Somalia, efforts to re-establish health care facilities and other social infrastructures have been severely hampered by fresh outbreaks of conflict and the further dislocation and displacement of peoples.

Invariably these complex emergencies result in mass forced migration, many hundreds of thousands of people are uprooted, cut off from their livelihoods and means of social support. Such displaced people put huge strains on whatever vestiges of social structure a nation, or region, may have left and may precipitate another round of conflict and catastrophe. These refugees place enormous strains on whatever the international community provides for relief, costing billions of dollars a year. Displaced people suffer extraordinary high mortality rates particularly when, as is most often the case, they begin to congregate in refugee camps. For example over 45 thousand Rwandan refugees died within the first weeks of their exodus to Zaire and their congregation in camps just inside that countries border.

III. Collapse Of Social And Health Infrastructures

The breakdown of regional and national social and health infrastructures seems to follow a predictable pattern in complex humanitarian crises. It tends to be insidious in onset, rising to critical

³ Ibid

proportions until it becomes a major symptom of the particular disaster and a key focus for external intervention and assistance.

Most crises affect the rural poor first. It is their healthcare structures that initially suffer and collapse. Characteristically, medical supplies to primary care and rural medical centers dry up, physicians, nurses and other providers are killed or take flight and the remaining resources become rapidly overwhelmed by the sick and wounded. The acute phase become chronic with ever more serious consequences as the loss of primary health care impacts on long term programs such as vaccination and immunization. The result is invariably a dramatic rise in acute childhood diseases such as measles, diphtheria and poliomyelitis. Additionally, major campaigns against specific regional scourges such as filariasis, are abandoned, with dramatic effects on the progress of the disease. Communications, already limited, breakdown completely and the crisis develops, unnoticed by the outside world.

As the crisis deepens, the breakdown of essential structures, such as transportation, worsens the plight of the rural population and those that can begin to move to urban areas. This begins to overwhelm larger medical facilities. These in turn lose their medical staff and their essential medical supplies run out. Generally it is at this point that the disaster comes to the notice of the world's media and external public opinion becomes mobilized. By this time the health crisis has so great a momentum that no external intervention can prevent a major calamity, loss of life and chronic impact on the population.

Despite the warnings of impending disaster that the collapse of medical and healthcare infrastructures signal, it is rare that external intervention and assistance is mounted on any significant scale at this stage. Help is frequently rejected by the ruling factions and the international will to intervene is usually patchy and weak. This is particularly true when the public health disaster is accompanied by major violence such as civil war. The brutal internecine violence, that characterized the crises this decade in Somalia, Ethiopia and Rwanda, was a major limitation on early effective intervention by the international community. It is only when the crises achieves catastrophic proportions that world opinion is mobilized -- then almost always through the efforts of the international media, particularly television news.

The catastrophe that finally stimulates action is rarely the direct consequence of break down of social and health structures. Only occasionally is it in direct response to major outbreaks of violence and massacre. International intervention in Bosnia is an exception. The failure of the international community to intervene in the Cambodian holocaust is more typical. Most often the catalyst is major loss of life resulting from the combined effects of the denial of food, water, sanitation and safe shelter from heat and cold. What the world sees is the acute effects of starvation, thirst, enteric disease and exposure to the elements. It sees the impact on large numbers of people who have gathered together in an attempt to find safety and help, the majority of the sick and the dying are the old, the young and their mothers.

IV. International Response

Just as the collapse of social structures in a complex humanitarian crisis follows a pattern, so too does the response of the international community. Invariably, the first reactions will come from international bodies such as the UNHCR, ICRC and the established NGOs such as CARE, OXFAM and Save the Children. Given the protracted nature and insidious onset of such crises, the international relief agencies will have established assistance projects in the counties and regions affected. Their response is to ramp up efforts and attempt to mobilize world opinion. However, it is rare that these organizations are wholly successful.

Firstly because the governments and ruling factions are frequently unwilling to consider increased external assistance and the NGOs and international bodies do not wish to threaten or compromise their own existing activities. Even though they may be severely limited or curtailed. Second, the crisis has not yet become a catastrophe on a scale large enough to generate media images and stories which will stimulate world public opinion. Finally, the agencies and NGOs find difficulty in coordinating their efforts, not simply to manage the crisis but to quantify and articulate the size of the problem and the response needed.

The response moves to the second stage only when the emergency has reached disaster proportions and the international media has begun to mobilize world opinion and action. This is when the international community attempts to intervene, but it is rare that this intervention has any coherent plan or structure. It is characteristically the time of international recrimination and "breast beating". Harrowing images fill the world's media and the impetus to assist manifests itself in sundry "international aid efforts". These efforts are most often ad hoc and aimed at the short term. The crisis generates new and emerging NGOs, frequently small, ill-conceived and organized, whose sole aim is to "help end the crisis", whatever that might be.

This is commonly a time of great chaos, both within and without the affected region. Nations and world bodies attempt to agree on a coordinated response. International aid organizations, NGOs and PVOs compete for funds and resources to assist. The media continue to raise the tempo of reporting and public opinion clamors for action and relief from the daily bombardment of images of misery. It is at this point that the established bodies and NGOs who have been working in the crisis region for some time, are most vulnerable. Regularly, the warring factions focus on the relief agencies as being the source of aid for the opposition, thereby contributing to or prolonging the crisis. The result is frequently violence directed against the aid agencies. The deliberate attacks against NGO personnel in Rwanda and the murder of ICRC doctors and nurses in Chechnya are examples of this growing phenomenon. The reaction of most of the established agencies and NGOs is either to suspend operations or to seek security through local arrangements. Only in the most dire circumstances is protection through external military intervention, sought by the international agencies and NGOs.

The shift of emphasis towards short-term relief and the advent of "new" NGOs also threaten the work of the established agencies. Donations and resources go to those who promise to end the acute misery. Small organizations - commonly lead by articulate and persuasive individuals and able to react more quickly than the bigger NGOs - flourish in the media spotlight. They are many times though, unable to meet their aspirations and become a liability to the themselves, the larger agencies and to whatever government is attempting to assert local authority. It is frequently these small newcomer organizations that clamor the most for external military intervention to provide the secure environment within which they feel they can work.

V. Military Intervention In Complex Humanitarian Crises

The escalation of international action to the point of intervention by military forces is a very large step, taken deliberately. It tends to arrive as a last ditch, desperate measure to prevent a huge regional catastrophe with unpredictable and unacceptable consequences for neighboring regions and nations. The very nature of armed forces and their traditional roles produce severe limitations in their use in the mitigation of complex humanitarian crises. Firstly, they are a nation's means of conducting what Clausewitz called "the continuation of foreign policy by other means", that is to say, war. For one nation state to allow another's military forces to enter and undertake activities - no matter how well intentioned - within its borders, is a major abrogation of national responsibility. Therefore, the first and most difficult

step in enabling the use of military forces to undertake humanitarian relief missions is to gain consensus for their use.

Agreement for the use of military forces must usually come from a number of interested parties: first, the conflicting factions or the recognized authorities/government in the afflicted region or country; and second, those nations and coalitions in the global community that have political interests in the afflicted area. The negotiations required to satisfy Russian sensitivities over deployment of NATO forces to Bosnia are a case in point. Third, and in recent years, ever more essentially, from the global community represented by the UN. Not only is this a complex and protracted process but it invariably results in major caveats being placed upon the mission and capabilities of military forces to be deployed.

Finally, the military commanders of those nations who wish to undertake these missions need to be persuaded. The sheer complexity of the task makes military commanders very wary of undertaking them and their advice to their political masters tends to be laden with limitations. The experience of the past decade suggests that they have every right to be careful. Operations like those conducted in northern Iraq and Rwanda have been dangerous and expensive, with little positive outcome. Moreover, such missions have a tendency to fulminate into open military conflict, sucking in those whose original aim was to help, Somalia being an painful example. Agreement from all interested parties for the use of military forces in complex humanitarian emergencies is therefore, no guarantee of their use. If and when such missions finally get the go ahead, they are invariably mounted late in the crisis and are severely constrained in their ability to effect the outcome.

Not surprisingly, the political complexity, financial costs and military risks lend a peculiar shape to operational plans. First, these operations tend to be conducted as coalition operations, frequently with multiple contributors and a wide disparity of military capabilities, causing unique and severe strains on C31 and logistics. Often too, those taking part have differing views of what is to be achieved and how. As opposed to coalitions formed for war, these tend not to be coalitions of choice. This fact, together with dynamic nature of each operational scenario, frequently results in an ambiguous mission, anathema to the war-fighter.

Recent operations in the arena of complex humanitarian emergencies are replete with examples of what follows from such vague mission statements. The much-quoted term "mission creep" has ominous meaning for most military and political leaders. Together with it comes two other military "nightmares". The first is that of mismatched capabilities, in simple terms, military forces and capabilities are deployed to meet the needs of a particular mission only to find that their real tasks require radically different capabilities and structures. The result is costly and lengthy re-deployment of forces. At worst this risks failure, at best it delays operational effectiveness, further limiting the military's ability to influence the outcome of a crisis.

The second, less dramatic but nonetheless unacceptable consequence of a vague mission, is that of open-ended commitment. In this case the problem is not necessarily an escalation in operational intensity and risk but rather the length and financial cost of an operation. Given the ever-increasing fiscal constraints imposed on most military forces likely to become involved in humanitarian relief operations and the escalating operational tempo that the US military in particular, works under, there is a constant striving amongst military planners to fix a clear time line and financial costs for every operation. This is particularly true for humanitarian operations where the threats to national interests are difficult if not impossible to define.

Given the extreme complexity and difficulty of the planning process, described above, it is surprising that so many military missions to assist in alleviating complex humanitarian crises have taken place in recent years. It may be a measure of how much the world is becoming ever more connected and interdependent. It may also reflect a growing awareness amongst the developed nations in particular, that the world is becoming an increasingly dangerous place and that the future of human conflict will not be wars between states but wars within them. Complex humanitarian emergencies are a growing manifestation of such conflict.

Despite the problematic nature of these operations and their variable outcomes, at least in military terms, it is likely that they will continue to be a feature of US and other national military roles in the future. A cursory examination of recent operations reveals some common themes. First, the military mission, though frequently ambiguous, usually involves mitigation of further death and injury from violence. This usually requires the establishment of some form of local security in which relief agencies can work and in some circumstances, the remaining vestiges of local authority and government can re-establish itself. As to how this is to be achieved is normally the most complex and delicate part of the mission, requiring detailed instructions, so-called Rules of Engagement, to enable commanders to establish a secure environment whilst avoiding getting embroiled militarily or even politically with conflicting parties.

The mission may also, but not always, require that the military use its resources and expertise to provide acute relief in the form of infrastructure and communication repair, provision of clean water, sanitation and limited health care for those in most dire need. It is this aspect of humanitarian relief operations that will be the focus of the remainder of this paper

VI. Role of Military Health Care In Complex Humanitarian Crises

In the light of what has been described, the role of military health care in complex humanitarian crises is an especially delicate one. Operations are complicated by a number of peculiar characteristics which impact fundamentally upon health care roles and missions and provide health care planners with special challenges. First, the unique nature of every operation. Although there are similarities between humanitarian relief operations undertaken by the US military during the past decade these are more than outweighed by their differences. Second the geographic, topographic and climatic variations of the theaters of operation. This is best exemplified by the extreme differences in operating terrain between Northern Iraq and Rwanda. Third, the special problems of coalition operations. This will vary in complexity dependent on the numbers of individual nations involved but will include language and communications differences, variations in national standards of medical care and equipment and differing views of medical tasks. Finally, the complexity of the mission. The key question will be to what extent the commander's mission requires or even allows deployed health care assets to be used to alleviate the indigenous health care crisis.

In order to identify the key issues involved in planning the health care support of such operations it might best suit our purpose to examine the standard planning cycle and to discuss the issues of greatest concern. In doing so the paper will highlight the areas that are the unique challenges of complex humanitarian operations.

As with any operation, the key to developing a health care support plan is a clear and unambiguous mission. However, as has already been argued, in complex humanitarian emergencies the likelihood of such a clear mission being given is not great. Therefore, the best point at which to start is an examination of the likely operational scenario. Having discerned in simple terms what we are going to

have to do, where we are going to have to do it, who is involved, what part of the world we are going to have to do it in, and when, we can turn our minds to the constraints under which we will have to operate.

In planning medical support we are required to adhere to certain medical precepts and concepts. These so-called Medical Support Precepts, developed over the past twenty years and for the most part adhered to by the military medical services of the developed nations, are best articulated in a NATO guidance paper of the same name.⁴ The first of these precepts is that our role is to maintain the health of the forces we support and to evacuate our sick and injured from the area of operations. In planning for complex humanitarian emergencies, this precept is sometimes given scant notice, particularly by medical planners who, in their eagerness to contribute to the main thrust of the mission, concentrate their efforts on providing medical care for the threatened population. The danger here is that troops deployed without comprehensive health care preparation and protection, may become casualties themselves. An outbreak of diarrhea amongst troops deployed to provide relief in a refugee camp will only add to the crisis.

The second and most problematic constraint is the requirement for military medical services to operate under the rules laid down in the Geneva Conventions⁵ for the care of the sick and wounded in war. In complex humanitarian emergencies the whole issue of our responsibilities under the Geneva Conventions is complicated. These Conventions were designed to meet the needs of war and they are by their very nature simple. In general terms, military medical services are required to treat and protect the sick and wounded of all sides of the conflict and to treat the enemy as we would our own. In the sort of operations under discussion, the sick and wounded may include a multitude of factions, those involved in armed conflict and those caught between opposing forces, as well as coalition forces.

If we wish to adhere strictly to these Conventions then it is likely we would only be required to treat the sick and wounded of our own forces and those of our coalition partners. The question then arises as to our responsibilities for other parties. This is particularly a problem when the military medical mission is limited by the commander to care of deployed forces only. How do military medical units and personnel on the ground reconcile turning away desperately sick and injured civilians or members of warring factions? To date the problems that have arisen have been dealt with by commanders on the ground on a case by case basis but it is only a matter of time before a major incident raises public debate. There therefore, is an urgent need to re-examine the International Conventions as they apply to this sort of operations.

The key to every successful medical plan is the availability of accurate, up to date, medical intelligence. This information must be able to identify specific environmental threats such as endemic disease, climatic threats and any special preparation needed to protect deployed troops. A health assessment plan is an essential element of the overall military intelligence plan. It is the medical contribution to what the warfighter calls "Intelligence Preparation of the Battlefield" and in the type of operation under discussion it is a vital contribution to the commander's overall plan. US military forces are world-leaders in gathering and utilizing this type of information. However, this data is commonly difficult and expensive in time and resources to obtain, particularly for those nations who lack sophisticated intelligence gathering systems, few even begin to match the US military in this area. Without the necessary information, there is a real likelihood of coalition partners deploying ill-prepared, succumbing to the health threats and contributing to the crisis. In coalition operations in particular, it is

⁴ MC 326 MEDICAL SUPPORT PRECEPTS AND GUIDANCE FOR NATO

⁵ The Geneva Conventions of August 12 1949

therefore essential the success of a mission that as much appropriate information is made as early in the planning process as possible. This will more often than not require the US military to take the initiative and to bear the costs.

From detailed analysis of medical intelligence data, medical planners are required to develop three key issues. First, a health risk assessment. The factors considered are the risks to deployed forces from endemic, prevalent a likely disease. It is reasonable to conclude that in complex humanitarian emergencies, the risk from disease will be high, particularly when the crisis features epidemics. Military personnel deployed on operations in Rwanda, faced an alarming array of prevalent and endemic diseases, not least being cholera, sundry enteric diseases, hepatitis and the ever-present malaria and AIDS.

A comprehensive health risk assessment will also include the climatic limitations. In northern Iraq, deployed forces where faced with the climatic extremes of very hot days and very cold nights in the mountains. Troops deployed to tropical regions, such as sub Saharan Africa, face the extremes of tropical heat and humidity, with dramatic consequences for the health of the ill-prepared. Finally, there is a need to consider risks to health from non-disease origins. Usually this encompasses unexploded munitions, land mines and the like as well as more exotic factors such as rabid animals, snake and insect bites. However, history shows that the most likely threat to the life and health of US military personnel deployed on these types of operations is a road traffic accident. Moreover these accidents come about from inadequate preparation of drivers, for example, failure to appreciate local road conditions, over-tiredness and insufficient acclimatization.

From detailed analysis of the health risks planners are able to develop a preventive health plan. This will probably begin with a prophylaxis and vaccination policy. Such a policy will be threat-specific and region specific but in most cases there will be a requirement to provide immunization and vaccination for specific diseases, such as cholera, yellow fever and hepatitis. In many areas of the world there will also be a need for malaria prophylaxis. The most important issue is a clear understanding of the time needed to develop immunity and the requirement for such immunization and prophylaxis to begin well before deployment into the operational area.

The key element of the preventive health plan is that of health education, teaching deploying forces well before the event, how to look after themselves and avoid unnecessary injury and disease. Acclimatization is a major issue in the health of troops deployed in these sorts of operations and not something that can be overcome by technology or ignored for reasons of expediency. Most military forces from temperate regions of CONUS and NW Europe will, for example, require at least two weeks acclimatization. Failure to rigorously enforce health discipline measures such as extra fluid intake, sun-screening and gradual work regimes, during this period, may result in large numbers of climatic casualties. Finally in some contingencies it may also be necessary to consider the threat of weapons of mass destruction, in particular the ability of warring factions to utilize rudimentary chemical and biological weapons.

Perhaps the most important issue in the preventive health plan, is the need to provide clean water- in large amounts for troops to be acclimatized. In almost every operation in recent US military history, the provision of clean water in sufficient quantities has been a major logistic problem. In the types of operational scenarios envisaged, the availability of water may actually be the key contributor to their crisis. The need to provide it might therefore be a constraint on the number of troops deployed and their ability to operate. As with many logistic aspects of humanitarian relief operations, it is essential that those who deploy to help, do not actually become a burden on the people they wish to succor. Where a shortage

of water has precipitated a crisis, the deployment of large numbers of military forces may actually contribute to a worsening of this crisis, unless they bring water with them.

The same constraints, though not as acute, apply on the provision of food. It is generally accepted that military forces deploy self sufficient in food, in the form of operational ration packs. However, this is not necessarily true of all forces who may make up a coalition. The consumption of local produce, which may be contaminated with exotic diseases, may present a major health threat to deployed forces and should be avoided if at all possible. A policy of reliance on local produce to feed deployed forces also raises the issue of where this food will come from. Complex humanitarian crises usually involve acute food shortages. Military forces must avoid exacerbating an existing shortfall.

The preventive health plan must also consider the essential, though regularly ignored, problem of sanitation. Enteric diseases have always exacted a great toll on military forces in the field. Such diseases are invariably a key feature of complex humanitarian crises. This is particularly so where existing sanitary infrastructures have been damaged or destroyed by conflict. Lack of sanitation and its contribution to disease is most starkly evident in refugee camps, particularly the huge temporary structures that were a feature of Northern Iraq, Ethiopia, Somalia and most recently Rwanda. It is essential that military forces be provided with the best possible types of field sanitation. Moreover, it is vital that the sanitation needs of these forces do not impact upon the local population. This is particularly a problem where military forces from the developed countries - used to high standards of sanitation - attempt to replicate these standards in an underdeveloped region. The marines deployed in Haiti rapidly overwhelmed the existing, rudimentary sanitation systems in the early stages of the operation and in doing so contributed to the health risks to themselves and the local population.

The third issue stemming from the health risk assessment, is a recognition that despite the best efforts of medical planners, health care personnel and commanders at every level, military operations are inherently risky and there will be sick and injured amongst the deployed forces. Some will succumb to exotic disease such as malaria, some to the less exotic diarrhea and inevitably there will be injuries. The medical requirement is to calculate the risks and to plan for them. This is known as developing a Disease and Non-Battle Injury (DNBI) Rate. It is usually expressed as a daily rate as a percentage of the force. Its purpose is part of an equation used to calculate medical treatment and evacuation capabilities to support specific operations. The DNBI is a vital element of the medical and logistic plan and without it structuring a deployable medical organization is little more than a guessing game.

Whilst the medical staffs are laboring over these complex and diverse health care issues it is most likely that the operational staffs are developing what is known as a concept of operations, in other words a detailed plan of how they are going to do their business. From this plan there should emerge a Casualty Rate. This is a formal prediction by the war fighter of how many combat casualties, as opposed to DNBI, that are likely to result from any military threat that the operation may involve. The production of such a figure has always been a vexed issue between medical and operational staffs, and never more so than in contemporary operations. War-fighters are driven increasingly to limit the number of casualties that may result from any particular military operation. The impetus comes in part from the political pressure of governments and the people, not to needlessly risk the lives of military contemporary military and in part from the difficulties in replacing limited numbers of highly trained military personnel. This is particularly true in the US military and the military forces of many of the developed nations. It is therefore highly likely that for the type of operation under discussion, a casualty rate will not be forthcoming and this in itself produces a unique problem for medical planners, which will be elaborated further in the paper.

From the operational concept the war fighter will be required to develop a Force Structure. In simple terms, the numbers and types of people required to undertake the task. Once this number has been reached it should enable the development of a mathematical calculation of the likely number of combat casualties to be expected from the operation. This is a Casualty Rate, expressed as a percentage of the overall number of deployed personnel on a daily basis, known as a Casualty Estimate. Again, for the reasons described, this rate is unlikely to be made clear. The problem for the medical planner is that, traditionally, medical organizations have been designed to meet the needs of a predicted Casualty Rate, plus an allowance for DNB. Denied these figures, a medical planner has little with which to articulate the medical requirements in terms of deployable resources. For complex humanitarian emergencies and other similar Operations Other Than War (OOTW) there is an urgent need to develop an alternative means to a formal Casualty Rate as a mechanism for assessing operational health care support.

Next in the planning process should come an assessment of available resources and facilities, in the theatre of operations, that might be of use to the military plan. These resources, known formally as Host Nation Assistance and Resources (HNA) are not simply medical facilities, equipment and personnel. They may include logistic support such as water, sanitation, power and transportation. In conventional operations these resources, though commonly overlooked, may be vital for the provision of medical support. For example in the Gulf War the majority of coalition medical resources were moved using indigenous transport, supplied with local water and powered by local fuel. In the type of operation under discussion it is highly unlikely that the recipient nation will have much in the way of usable medical capability. In fact quite the reverse may be true and the planner's task then becomes one of assessing liability. Not only might the recipient nation be in dire need of health care support, but any health care assistance provided by intervening military forces must be balanced against the burden it may place on the local infrastructure. For example a deployable military hospital of the type currently used by US military and many similar national forces, will make huge demands on available water, power and transport and may therefore be totally unsuitable for deployment in complex humanitarian emergencies.

If, as is highly probable, the humanitarian relief operation is to a coalition affair, then an assessment of the medical capabilities of coalition partners is essential. It is, however, fraught with difficulty and may indeed not be possible until forces are deployed in the operational area. Some nations have medical capabilities comparable to the US military and may be a useful asset to the overall medical plan. Many will not, and again the assessment becomes one of liability. So difficult is this problem to solve that there is a tendency in most coalition operations for nations to deploy with what is termed a "stand-alone" medical capability. Whereas this may meet the perceived individual needs of coalition forces it has the huge disadvantage of replication of resources and further overburdening of the logistic tail. This is particularly the case in respect of deployable hospitals and inter-theatre evacuation. In northern Iraq, for instance, there were deployable hospitals with both US and British forces, within close proximity of each other. The need to develop plans to streamline medical support for coalition forces, particularly at the deployable hospital level and above, is a critical aspect of complex humanitarian crises.

All that has been described so far is what is needed to support military forces whose medical plans work in a unique fashion. Contemporary operational concepts, whether they be for conventional operations or the type under discussion, are predicated upon the need to treat fit healthy soldiers and either return them rapidly to duty or evacuate them out of the theatre of operations and home. Furthermore, these organizations are designed primarily to meet the needs of combat. That is predominately surgery for the wounds of war with an additional limited capability to treat minor diseases. Deployable military medical units are not organized, structured or equipped to manage the type of civilian casualties characteristic of complex humanitarian crises. Nor are they designed to treat major disease in large numbers or to hold and treat casualties of any sort, for any length of time.

The mission design of deployable military units imposes considerable limitations on their use in complex humanitarian emergencies. Even where they have the capacity to treat civilians they are best suited to treat the injured and not those suffering from disease. Yet large scale disease is a particular manifestation of these crises. Moreover, military medical doctrine requires only the management of the acute phase - life and limb-saving measures. Once stable, military patients are evacuated rapidly out of theatre. Military medical units lack the ability for prolonged definitive treatment. Given the scenario where initial medical treatment has begun in a military medical facility and no local resources exist to provide continuity of care, an acute medical crisis is likely. It is therefore essential, that if the medical plan is to include the management of civilian casualties, additional assistance is sought to enable continuity of care. In most complex humanitarian emergencies additional medical resources will be available in the form of NGO organizations, for example the medical facilities of ICRC, CARE and Medecins Sans Frontieres. An essential part of the medical plan should therefore be close liaison between NGO and military medical capabilities.

Without this planning, major crises are inevitable. Consider a hypothetical case where a violent incident produces a number of casualties; coalition forces, local warring factions and local civilians. All are evacuated to, and given life and limb saving treatment in, a coalition military hospital. The coalition forces are evacuated out of theatre to their own country as soon as they are stable and fit to move - in the case of US forces, CONUS. Where are the local civilians going to receive continuity of care? In some cases they may find further treatment, albeit limited, in a local civilian hospital. But what of the warring factions? It would highly unlikely that they would be evacuated out of theatre and yet further treatment in a civilian hospital may be out of the question for reasons of security. Without a plan to provide further care in a neutral organization these individuals may have to be managed in a military hospital totally unsuited to providing necessary care and also compromising the military position of impartiality and even security.

Medical planning has so far taken us to the point where we can begin to construct a comprehensive medical structure. Our preventive medicine plans should protect deployed forces through sensible preparation and the prevention of disease and injury. We should have a robust command and control system. Our DNB and Casualty estimates should provide sufficient capability to enable us to treat the sick and the wounded of our deployed military forces at every level from the personnel deployed on the street or at the airfield back through the hospital. We should also be able to evacuate, rapidly, to every level and out of theatre and to provide the logistic support to sustain us in theatre. Properly constructed it should also give us the capability to treat, in some limited fashion, casualties amongst the warring factions and even the civilian population. This will be critically dependent upon close liaison with the host nation and whatever NGO medical resources are available in theatre.

There remains now the question of what can be done if the medical mission is formally expanded to include health care to alleviate the crisis. The greatest problem in this respect is that military medical ethos is still firmly entrenched in the doctrine of treatment of the combat wounded and the majority of contemporary deployable military medical organizations are designed to meet this mission. Arguably what is not required is the capability to undertake the sort of heroic surgery and complex medical treatments, commonplace in the developed world. As admirable as this sort of short-term acute intervention may be, in countries of the developing world afflicted by humanitarian disasters, it can rarely be sustained or supported in the long term. This capability is, however, the core competence of deployable military medical units in the US and other military forces of the developed world. It therefore raises real doubts about their utility in complex military emergencies, other than providing for their own forces' immediate health care needs.

Experience has shown the key to mitigating the health care crisis in these sort of operations is in the arena of public health. It could be argued that the real contribution of military health care in these situations should be, first and foremost, active assistance in the re-establishment of a viable public health system. In support of this argument, Hansch and Burkholder⁶ state that "What is most sorely lacking in complex emergencies is not medical clinicians but experienced team leaders, health educators and water and sanitary engineers. Despite the public image of trained clinicians saving lives in a field hospital, those professionals who can enter a chaotic environment and determine the best way to demarcate sanitation areas in camps, chlorinate public water supplies, drain swamps and negotiate participation of the population in public health campaigns are the key factor that determines the success of an operation".

If this is true, and it seems eminently sensible, then the most useful role of military health care in complex emergencies is the provision of leadership, organization, and preventive resources. Their task should be to contribute to the overall mitigation of disease and the re-construction of a viable social and health care infrastructure in the affected region. An ideal military organization for such an task would be a team comprising public health experts, engineers, civil affairs officers and logisticians with a mission to coordinate with other existing health care experts, local civilian, NGO and PVO, in the reconstruction of a public health infrastructure. This might be reinforced with medical clinicians and paramedics trained in the role of health educators with the ability to provide, primary health care and education.

VII. Conclusion

Complex humanitarian emergencies, defined as man-made disasters brought about by protracted conflict and exacerbated by the effects of social breakdown, are an increasingly common phenomenon in the late 20th century. Many hundreds of thousands of people die each year as a result of these disasters. They are lengthy, recurring and characterized by total breakdown of social and health care structures. Though violence, often extreme, is a common feature it is usually a major catastrophe such as mass starvation or the outbreak of epidemic disease that brings them to the world's notice. Almost invariably the calamity is caused by the mass migration of peoples and subsequent congregation in huge numbers in refugee camps, where they are most susceptible to the privations of killer diseases.

The profile of most humanitarian emergencies is of insidious onset with a sudden catastrophe which brings them to the world's notice, characteristically through the medium of television pictures of indescribable misery. By the time world opinion has been mobilized and action contemplated, it is normally too late to prevent all but the worst of the disaster. Initial response normally comes from NGOs who have been working in the affected area, unnoticed by the world, for a considerable time. Their actions rarely receive world attention. It is not until "newcomer" aid agencies enter the affected area and find themselves unable to cope that the clamoring for external action on a massive scale really begins in earnest.

Inevitably, the task of attempting to end the crisis falls to military forces. However, the problems of using the military in these tasks are considerable. Not least is the fact that inviting another nation's military forces into one's country, even for humanitarian purposes, is an abrogation of national responsibility. Not surprisingly the path to final deployment is slow and military tasks in humanitarian relief are accepted reluctantly by most military commanders. The principle reasons for this hesitation are that often these military missions come too late to give any hope of affecting the outcome and involve

⁶ Ibid

complicated coalitions, not necessarily of choice. Moreover, they many times involve vague missions with a tendency to suck outsiders into local conflicts, frequently with disastrous results.

Despite these problems, complex humanitarian emergencies are likely to be a regular feature of US military missions in the future. Such missions normally will require at least, mitigation of further injury and death from violence and the establishment of a secure environment in which for the relief agencies to operate. Sometimes these missions may also require the use of military resources in direct relief action.

The role of military health care in these types of operations is as complicated and as varied as the tasks themselves. The primary role will always be to maintain the health of deployed forces. To achieve this a very detailed and thorough medical support plan is required. Key to success is a comprehensive preventive health plan which aims to avoid our own forces becoming casualties and contributing to the crisis. Medical plans for these operations are complicated by the unique environments in which they take place, the medical threats that these produce and the need to work in disparate coalitions. As with all military operations the vital areas of disease prevention involve water, food and sanitation. In environments where the infrastructure is destroyed, it will be difficult to provide for our own troops without burdening the local population. Logistic limitations may actually dictate the extent of military relief action.

Where missions are broadened to include direct medical aid to the community, the military medical system is in many ways poorly designed to help. Military doctrine is based upon life and limb saving treatment of combat wounded and their early evacuation home. Designed to meet this ethos, deployable military medical units are poorly structured to manage large outbreaks of serious disease, or to provide long term definitive care in theatre. The key to meeting this shortfall is a plan which coordinates military resources with local civilian resources and most importantly with the NGOs, many of whom will have superior resources and expertise in the area.

For the majority of humanitarian crises, experience has shown that the real requirement is not for medical clinicians and deployed hospitals but for public health experts, sanitary engineers and primary care educators. Arguably the most useful role military health care could play in future crises is to provide multi-disciplinary teams of public health experts, engineers, civil affairs officers and logisticians to coordinate with the NGOs and local authorities in the reconstruction of public health infrastructures. It must be added that such a radical change in current military medical doctrine will require some fundamental rethinking amongst the military medical services. However, the current leadership in the Department of Defense is ideally suited for such a major reappraisal.

MINE ACTION: TOWARDS A FRAMEWORK FOR CO-ORDINATION

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for

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I. Introduction.

The prevailing wisdom is that the existing mine threat consists of an infestation of over one hundred million landmines (varyingly anti-personnel mines) in more than 70 countries, producing casualties at a rate of over 2000 per month. It is also sometimes claimed that mines are being laid at a rate faster than they are being removed. Reference is also made to the enormous financial cost of removal (demining) relative to the cost of manufacturing and laying the mines.

This information has energized worldwide public opinion to the point where the future use of anti-personnel mines will be significantly reduced if not eliminated altogether. Additionally, the allocation of more and more resources to combat the existing mine problem has been promised. In December 1997, at the Ottawa Conference on mine action, the Canadian foreign minister stated that a firm commitment of \$5bn has been received for expenditure (it is assumed) over the next five years. Assuming a positive outcome to the US 1010 Initiative, this figure could be a conservative estimate. The same conference concluded, as had many others over the past three years, that co-ordination in addressing the mine problem is needed as a matter of priority.

It remains an open question, however, as to what is to be coordinated, how such co-ordination is to take place, and who will do the coordinating. This paper attempts to provide ideas on the first of these.

II. Addressing the question, "What is the Problem?"

Defining Mine Action.

It is first necessary to obtain consensus on what mine action means, what its objectives and priorities are, and what criteria should apply in carrying it out. Mine action is not simply about anti-personnel mines, nor indeed about mines and other explosive debris; it is more about people who are affected by these devices. With regard to the existing mine infestation, it involves actions to assist those who have become casualties as well as activities to prevent further victimization.

Mine Action Objectives.

The objectives of mine action can be stated as follows:

- a) To provide medical and post-trauma assistance to victims, including their rehabilitation and possibly that of their families and society;
- b) To prevent further victimization through the conduct of risk reduction and demining programmes;
- c) To assist in economic development through the conduct of mine clearance, either as a part of, or as a prelude to, such development.

Ideally, all three objectives could be pursued concurrently. As this has rarely been possible, priorities among the objectives and within each objective will normally have to be established. It should be evident that assistance to victims should be at the top of the list and that objective c) should not be

undertaken at the expense of the other two. A good example of the type of priorities established are those used in the Five-Year CMAP plan in Cambodia:

Priority 1: Land use for the resettlement of refugees/IDPs or settled land with high civilian casualty rates;

Priority 2: Land use for agriculture;

Priority 3: Community development purposes (humanitarian);

Priority 4: Reconstruction and infrastructure development purposes in these priority zones.

Criteria for Intervention.

A common set of criteria should be agreed upon to determine if the objectives of a mine action programme in a particular target region could be met. These criteria should include:

- The relative impact of the mines within the region, with priority given to humanitarian-related effects;
- The capacity of the target state or region to handle the problem;
- The security situation, especially if conflict is ongoing or likely;
- The probability of continued mine use;
- The degree of political will to accept a programme.

Challenging the Numbers - Where Are the Opportunities for Mine Action?

While the phrase "110 million landmines in more than 70 countries" makes a powerful sound bite, the reality and relevance of these numbers need to be clarified. First of all, the perception of risk is the reality so that the difference between 10, 100, or 1000 mines per square kilometre is of little consequence. Secondly, the density of mines encountered in most programmes is much less than anticipated; in some cases, up to 60% of the suspected area has proven to be mine free. (The first challenge for technology therefore should be to determine where the mines are NOT.) This has resulted in a lowering of the estimate in several programmes. Thirdly, many of the numbers quoted were simply guesses; no level of survey was conducted to refine the numbers.

Of greater significance is the fact that even a cursory examination of mine-affected countries relative to the criteria listed above shows that many do not have a problem requiring outside intervention, for example:

- Countries such as Austria, Belgium, Germany and the Netherlands clearly have the required indigenous capacity;
- China (9M mines) reported that it will clear its own mines by 1999;
- India and Pakistan are unlikely to initiate a demining programme in Kashmir in the near future.

From these few examples, it is evident that while the supply of resources to resolve the mine problem are forthcoming, a more rigorous assessment of the problem must be made. Using the criteria established, it is the author's opinion that the resulting list of opportunities for the conduct of mine action programmes will be roughly as follows:

Countries (including those with programmes underway) needing and ready to receive mine action to meet all three objectives.	Approximately 10
Additional countries requiring and receptive to mine action for development and/or humanitarian purposes.	Less than 20
Additional countries requiring and receptive to mine action for development and/or humanitarian purposes.	Less than 20

III. Co-ordination Step 1: Matching Supply and Demand.

Effective co-ordination of the global mine effort can be achieved by taking the following steps:

- Achieving consensus on the definition of mine action, its objective, priorities and criteria for its initiation and conduct;
- Based on the foregoing, assessing the real need for mine action on a country-by-country basis, including an assessment of the opportunities and constraints to conducting mine action programmes, in whole or in part;
- Presenting a country-by-country costed list of opportunities for mine action;
- Taking the action necessary to initiate/expand programmes, either multilaterally or bilaterally;
- Conducting a periodic review of the steps taken, and of ongoing programmes, making adjustments as necessary.

IV. In-Country Co-ordination.

In addition to the global problem, co-ordination of mine action within programmes must be improved. The mature programmes in Cambodia and Afghanistan have achieved an acceptable level of efficiency. Likewise, co-ordination within the Bosnian programme has improved through the intervention of UNMIBH in setting up a council to provide oversight. This council, which involves the political authority, UNMIBH, donors, SFOR and the Office of the High Representative, could serve as a model. Fragmentation of effort exists however in Angola and to a lesser extent in Mozambique.

In-country co-ordination is required at two levels. The first is at the technical level to ensure that the components of mine action are harmonised, to avoid duplication, and to ensure standards are applied. This can only be achieved with the setting up of a mine action centre dedicated to the function of co-ordination, rather than simply executing projects or training deminers.

The second level requires a committee or council to be formed comprised of the political authority, donors, principal NGOs, and the UN (if involved). This body is needed to exchange appropriate information, to discourage independent, stovepipe actions which have been used to play one donor off against another, to increase transparency and accountability, and to provide the type of leadership seen in Cambodia and now in Bosnia. This bi-level mechanism must exist in some form from the commencement of a programme.

V. Conclusion.

Mine action efforts must be harmonized both globally and within programmes. While the latter is essentially a management issue, it does require a high degree of collaborative effort among all the players involved on the ground. At the global level, consensus must be established on what mine action means and what the objectives and priorities are. It seems obvious that the overall problem to be addressed is much less than 100 million mines in over 70 countries. It is also evident and that the opportunities for effective mine action may be more limited than expected. Following an accurate assessment of the extent of the problem to be resolved, the next step should address who does what in bringing the problem to its successful resolution.

PEACE SUPPORT OPERATIONS AND MINE ACTION

Major-General (Retd) John A. MacInnis

Discussion Paper
for

Conference On
Civil-Military Relations in Complex Humanitarian Crises
"Forging Peace"

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"De-mining operations should be, whenever appropriate, an important element and an integral part of peacekeeping operations."
-NATO Lessons Learned, November 1997

In a presentation to the NATO Defence Planning Symposium held on 13 January 1998, the NATO Bosnia Task Force included, as one of its five lessons to be learned, the need to 'harmonize civil and military planning and coordinate civil and military actions'. It was pointed out that while NATO spent several years planning for its role in Bosnia, such planning was conducted in splendid isolation. Early coordinated planning would have placed all actors in a better position to implement the Peace Agreement much more effectively.

The following extract from a report dated 18 July 1997 by the International Crisis Group on the Dayton Peace Agreements clearly shows how the problem of mines was wrongly assessed.

The casual treatment of landmines in the Dayton Peace Agreement has not had a positive impact on demining in Bosnia. The drafters of Annex I-A committed the former warring parties to "begin promptly and proceed steadily to complete ... within 30 days" after the transfer of authority from UNPROFOR to IFOR (or as might be determined by the IFOR commander) the demining of the Zone of Separation, 1075 kilometres long, and four-kilometres-wide.

The impossibility of such an undertaking was surely obvious to anyone who understood anything about landmines, or for that matter about Bosnia. The demining clause was almost surreal in its failure to take account of the country's topographical and political terrain, or the nature of the war that had been fought here, or even the weather. The transfer of authority from the former warring parties to the NATO-led forces (IFOR/SFOR) started in December 1995. Thus the phased deadlines for complying with the demining provisions of the DPA fell in the Bosnian winter: How did the drafters of the treaty expect the former warring parties to locate and dig up hundreds of thousands of landmines from snow-covered, hard-frozen ground?

With hindsight, a rereading of the DPA suggests that the drafters of the treaty were interested in mine removal primarily, if not only, to the extent that mines left in place would hamper the activities of the NATO-led force. A 30-day deadline for clearing mines from roads and areas that IFOR itself needed was perhaps a reasonable objective, even in winter.

Whatever the drafters were thinking, the demining provision is one of the areas where the language of the DPA was inadequate to the magnitude and complexity of the task at hand. True, there were more pressing issues to deal with at Dayton. The emphasis in those days was on enabling IFOR to separate the entity forces, round up heavy weapons, and prepare to suppress any possibility of renewed conflict. Even so, it is notable that the broad humanitarian objective of rendering Bosnia substantially mine-free was not on the DPA agenda, except in a loose, rhetorical way.

Meanwhile, mine action was indeed underway at the commencement of Dayton: rudimentary mine action centres had been left behind by the UN Peace Force in Bosnia and Croatia; the ICRC and others had been treating the victims of mines and were engaged in risk reduction education and several demining NGOs were on their way. Pulling the activities together in a coordinated fashion has progressed slowly, however, and although not fully realized, can be assessed as being satisfactory as of 31 December 1997, two full years after Dayton began.

In general, peace support operations involving the military may be undertaken during the midst of ongoing conflict, under conditions of unresolved conflict, or during the peace implementation phase following a conflict. At present, there is a reluctance to become engaged prior to the attainment of full peace: the trend from Cambodia through Somalia, to the former Yugoslavia (UNPROFOR) to Rwanda and the multinational forces for the former Zaire all indicate a severe decline in the probability that military forces will enter the fray without an ironclad peace agreement in place. Nevertheless, military and other planners must be prepared for a political decision that counters that trend. Having in place a set of options as to how to deal with, inter alia, mine action under all conditions would seem prudent.

Mine action during active conflict

While wars can occur between or within states, the most vicious and recent have been those which have had as their objective population dislocation by any and all means. Under such conditions, humanitarian assistance is likely to be impeded, and relief workers threatened. In the absence of broad consensus among the warring parties, intervention by military forces would be under Chapter 7 of the UN charter, undertaken most likely by a coalition of the willing and able.

Some mine action may be underway by the time force reconnaissance and deployment takes place, but most likely restricted to mine awareness training and the provision of medical assistance to the victims. Some demining may be occurring in the less violent areas in order to facilitate the delivery of aid.

The presence or the threat of mines may constrain the ability of the force to deploy itself and once in place, to undertake its mandate. Similarly, some mine clearance may be requested by humanitarian agencies in order to achieve access to vulnerable populations or to allow others to depart combat areas. To meet these conditions, the force must have:

First and foremost, a clear policy on mine action. As the presence of both a local capacity to demine and commercial agencies to take on the task would be unlikely, demining by the forces themselves will be necessary. Such a policy must be in place early in the planning period so that capable forces are on the ground when needed, and that any political constraints which some contributors may have are known and compensated for;

Second, as derived from the policy, clear and agreed rules of engagement (ROEs) for mine action must be available so that commanders know and can explain the limits of their authority to engage, or to assist, in mine action;

Third, adequate mine action expertise and resources to meet the needs as foreseen in the policy and confirmed by reconnaissance;

A part of its CIMIC operational capability, facilities and expertise necessary to gather, collate, assess and share information on mine action with all other involved agencies.

Mine action under conditions of unresolved conflict

A more likely scenario is the condition that is extant at present – that of unresolved conflict. The conflict may have ended due to fatigue or other factors but, while the likelihood of a general resurgence is unlikely, the security condition is dangerous. A coherent and effective political authority and state structure is unlikely to be present resulting in the absence of law and order and the presence of gangs

and local warlords. Broad-based humanitarian assistance is being attempted to relieve widespread shortages and suffering among the civilian population, many of whom have been displaced from their homes.

Peace support operations may be carried out with the tacit approval of (or at least unopposed by) the main warring factions. Intervention would be by military, police, humanitarian and developmental organizations, human rights advocates, all attempting to kindle the flames of democracy, well-being, the rule of law, and economic recovery. The conditions for exit are not easily foreseen at the commencement of the mandate period. The emphasis, however, will be on the humanitarian dimension.

The mandate of peace support forces will include some or all of the following: to provide protection and security, supervise truces and cease-fires, separate forces, demobilize and disarm, support the promotion of human rights and the rule of law.

Again, as in the previous scenario, mine action is likely to be underway in some form prior to the intervention and could include some active demining. Mines could impede the conduct of operations and priority would be given to mine action associated with the deployment and operation of the force itself. With the absence of conflict, however, greater emphasis will be placed on the conduct of emergency mine action for humanitarian purposes. Agencies such as the World Food Programme (WFP) and UNHCR will initiate mine clearance to carry out their mandates, while the ICRC and UNICEF will be pursuing their objectives with respect to victim assistance and risk reduction. More and more NGOs and private companies may arrive to carry out demining. The presence of development organizations such as the UNDP would mean that capacity building for mine action is at least being planned. The force may be mandated to assist in the set up of a co-ordination mechanism for mine action, although a separate organization may be mandated for this task, especially if the UN is involved. For the force itself however, priority must be given to the conduct of the mandate. To act in these conditions the force:

- Must have in place a policy and ROEs similar to those referred to previously. Except under emergency conditions, forces may be reluctant to permit their soldiers to be engaged in the lifting of mines, especially if NGOs and private companies are conducting such clearance;
- Must have in place a clear policy on the extent to which support to the mine effort being carried out by others can be given, and the nature of that support;
- Might have to possess an expanded CIMIC capacity, one which may require the capability to coordinate temporarily the entire mine action effort, including the set up and operation of a database;
- Be prepared to provide support and assistance to NGOs and others, including information on the security situation, technical information on mines and minefields.
- Within resources, provide technical and instructor support to any capacity-building effort underway, at least during the initial stages.
- Be prepared to hand over the civilian mine action activities it has assumed to a mine action centre once one is established.

Post-conflict Mine Action

The lesson from Dayton as outlined at the beginning of this paper is quite clear – the peace agreement from which the force's mandate is derived should contain the policy for mine action including the division of responsibilities among the local authority, the civilian component of the accords and the security forces. During the planning period, every effort must be made to bring military and civilian planners together to ensure the Dayton shortfall is not repeated. In this regard, the UN (DPKO, UNDP, UNICEF etc) the ICRC, NGOs, the designated international civilian authority, and if possible, local authorities, should all play a part in the planning process at the appropriate planning level. For the peace support forces, the following apply:

- Policy, ROEs and criteria under which support is to be provided remain the same as in the foregoing situations:
- The policy with respect to mine action activities to be undertaken by the former warring parties themselves has to be defined, as well as the role (if any) to be assumed by the peace forces in this context;
- A clearly defined mine action exit strategy should also be in place.

Conclusion

Dayton was not the only accord in which a coherent plan for mine action was lacking. In most cases, mine action, less that undertaken by the ICRC and some other humanitarian agencies seemed to occur as an afterthought. It appears however that the lesson has been learned and that planning will be expanded to include the subject of landmines and their clearance. But more than that, action to address the mine problem must begin as early as possible. In the event of an ongoing crisis or conflict in which mines are playing a part, information gathering, advocacy, awareness and medical issues should be pursued even before the peace process begins. Furthermore, to permit fruitful planning to occur, the peace process itself should address the mine issue by setting out the political and infrastructure framework deemed necessary to begin a mine action programme once the security and political situation permits. Whatever situation should emerge, forces designated for peace support operations have the unique capacity to plan, coordinate, and communicate, vital in the set up of effective mine action programmes.

LEGAL PRINCIPLES GOVERNING REFUGEE ISSUES AND NEW CHALLENGES

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I. Executive Summary

Refugee situations of the post-cold war period are a consequence of internal politico-ethnic conflicts. They bring tremendous challenges to UNHCR's humanitarian mandate because of their complexity and their wide geographical scope. UNHCR's refugee mandate is no longer called upon only in the more traditional peaceful refugee areas of the asylum states. We now operate within a conflict, frequently facing resistance from non-state parties to a war or finding our operations targeted by warring parties. We find ourselves increasingly requesting protection for our operations as well as the civilian populations who are far too frequently trapped or targeted in the world's conflict zones. An enhanced interface with military partners in theaters of operation would allow the humanitarian operations to both better address the limitations of relief actors and provide a basis for post conflict reconstruction during UNHCR's repatriation phase.

To that end, the military should fully understand UNHCR's refugee principles and include this and other refugee-related agencies in the planning phases at all levels to ensure that the overall operation is consistent with the universally accepted international standards. Indeed, the issue is how the military can assist civilians in complex emergency situations in a partnership manner to perform better in terms of human security. Some joint operations with the military have demonstrated that such partnership enhance our ability to collectively respond to a crisis and ultimately speed up the potential for finding the common ground necessary for peace.

Military support can create a more secure environment for UNHCR's action, but applicable rules and principles need to be strengthened for an ongoing capability to provide humanitarian relief and ultimately conditions for both peace and justice. Training of the military on refugee principles is an essential pre-requisite for such a partnership. This paper addresses the general protection principles recognized by the international community and specific principles linked to the operational nature of UNHCR's mandate.

This paper suggests that if the international community could help to address the main constraints and challenges of the post-cold war refugee situations, the security concerns of the asylum countries and countries of origin may find solutions. Massive population displacements and most particularly large-scale refugee movements may become causes of instability for countries concerned if durable solutions are not rapidly found. Indeed, the cycle of violence may be entertained by lack of proper solutions to the refugees' plight forcing the latter to desperate initiatives, which, in turn may fuel the conflict. The Humanitarian side alone cannot implement lasting solutions unless it is supported by an organized force which is always lacking in the vast majority of today's refugee situations.

II. Introduction

I am very pleased to have been invited to participate in the conference on civil-military relations in complex humanitarian crisis. I wish to thank the National Security Program of the John F. Kennedy School of Government and the Marshall Legacy Institute for this wonderful initiative. Indeed, today's refugee situations are complex in nature, diverse in their geographical scope and bring permanent challenges to legal principles generally admitted by the international community. Humanitarian agencies like UNHCR need to be more innovative in their approach to current refugee issues to be in a position to carry out their mandate.

One of the characteristics of the vast majority of the post-cold war refugee situations is massive displacements of refugees (i.e. persons who crossed international borders) and Internally Displaced Persons (IDPs) in a context of general insecurity and violence. This is due to the fact that conflicts are internal in nature and mostly politico-ethnic. Moreover, the humanitarian action is no longer carried out in the traditionally peaceful asylum countries but in areas that are facing their own internal conflicts.

Within this above-mentioned context, UNHCR needs to work with a wide range of dedicated and qualified or rather specialized partners to be able to accomplish its mandate. Ongoing complex humanitarian crisis (i.e., the Great Lakes Region of Central Africa, the former Yugoslavia, Afghanistan, Cambodia, etc.) have shown the limitations of purely humanitarian interventions. For that reason, UNHCR has appealed to the international community to take the responsibility of assisting the Humanitarian agencies in the performance of their role by providing military protection to the staff, by securing the civilian nature of refugee camps and settlements, and by providing logistical support when necessary.

Some examples of military support to the Humanitarian may illustrate the need for a partnership with the military:

The creation of a "safety zone" in northern Iraq for Kurds has enabled UNHCR to take over the humanitarian operation from the Coalition Forces in 1991.

In Bosnia-Herzegovina, the military mandate has been closely linked to humanitarian activities that enhanced UNHCR's capacity to deliver humanitarian assistance. Indeed, the securing of Sarajevo Airport by UNPROFOR (United Nations Protection Force) and its activities on demining, repair of roads and utilities, the protection of convoys, etc. have been invaluable contributions to the humanitarian effort. Air force staff from a number of contributing countries working under UNHCR's authority and control has implemented UNHCR's airlift operations to Sarajevo, as well as to besieged areas.

But UNHCR's humanitarian action is not only the delivery of relief assistance. It is first of all the international protection of persons falling under its mandate. For that reason, it is crucial that in civil-military relations the issue of understanding refugee principles be brought forward. Impartiality and neutrality of the Humanitarian are key principles expected by the parties to the conflict, but the parties concerned and UNHCR's operational partners should be acquainted with key protection principles which constitute the cornerstone of the mandate of the Office.

This paper will review three refugee core principles, then focus specific principles which are operation oriented as a means to properly addressing refugee situations. The paper will then identify problems and constraints related to the current challenges to refugee law.

III. General Refugee Law Principles

The main international instrument governing refugee law is the 1951 Convention relating to the Status of Refugees and its additional Protocol of 1967. As the milestone in international refugee law, the convention developed a set of standards of treatment of refugees. It defines the refugee as a person who is outside of his or her former home country owing to well founded fear of persecution for reasons of race, religion, nationality, membership to a particular group or political opinion, and one who is unable or unwilling to avail himself or herself of the protection of that country, or one who is unwilling to return to his country of origin because of fear of persecution.

The sentence "well-founded fear of persecution" is the key element of the refugee definition. It suggests that the determination of refugee status will require an examination of the applicant's declaration. Since "fear" is a subjective element in the individual, it is not the appreciation of the situation prevailing in his country of origin which really matters but the evaluation of what the applicant said to express the reasons for his fear of persecution.

As the core of the refugee protection system, the Office of the High Commissioner for Refugees was established by the United Nations General Assembly in 1950 to provide international protection and seek permanent solutions to refugee problems. The High Commissioner's protection role within the framework of her mandate includes, inter-alia, the promotion of conclusion and ratification of international conventions for the protection of refugees and the supervision of their application. In this context, UNHCR has a role to play in the application of the provisions of the 1951 Convention by States parties. On the other hand, the Convention obliges the States parties to co-operate with UNHCR, particularly, in facilitating the Office's supervisory role.

The 1951 Refugee convention provided for exclusion clauses for three clearly identified categories of persons:

- 1) - Persons already receiving United Nations protection and assistance;
- 2) - Persons considered not being in need of international protection;
- 3) - Persons considered not to be deserving of international protection.

The underpinning philosophy of these exclusion clauses is to limit the international protection to people who really lack it and also to exclude those who definitely do not deserve it. It is worth noting that considering the serious consequences of exclusion for the person concerned, the interpretation of these exclusion clauses must be restrictive so as not to harm bonafide refugees. The category of persons who do not deserve protection has therefore been carefully enumerated by article 1(F) of the 1951 Convention.

"The provision of this convention shall not apply to any person with respect to whom there are serious reasons for considering that:

- a) *he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;*
- b) *he has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;*
- c) *he has been guilty of acts contrary to the purposes and principles of the United Nations."*

Asylum and Non-refoulement

The 1951 Convention clearly established the principles of *non-refoulement*, according to which refugees and asylum seekers should not be returned against their will to places where they may be exposed to persecution. This principle puts the onus on the states to make sure that people falling into the category of refugees are not forcibly returned to countries where their life or physical integrity will be in danger.

The exception to *non-refoulement* is the situation of "a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgement of a particularly serious crime, constitutes a danger to the community of that country". However, it appears clearly from this provision that expulsion or return of a refugee should be an exceptional situation in which competent authorities concerned in the asylum country should exert a lot of caution so that the measure is not disproportionate to the act that the refugee concerned was convicted of.

For any asylum seeker (refugee applicant) to put his case forward for consideration by the competent authorities of the asylum country, the applicant should be given access to the procedures for the determination of refugee status. The principle of access to asylum procedures is linked to the issue of non-rejection at the frontier. Its denial may result in "refoulement". This is the reason why States parties to the 1951 Refugee Convention should put in place clear eligibility procedures and guaranty, as a matter of principle, access to persons claiming refugee status.

In legal terms, granting asylum has still some way to go as far as its clear acceptance by the States of their international obligation is concerned. However, regional initiatives such as the OAU convention relating to the specific aspects of refugee problems in Africa consider that "the grant of asylum to refugees is a peaceful and humanitarian act and shall not be regarded as an unfriendly act by any member State." The OAU Refugee Convention stipulates that States should use their "best endeavors" to receive refugees. There is still a gap between the principle of *non-refoulement* generally acknowledged as a norm of international law as enshrined in the 1951 UN Refugee Convention, and asylum which is a prerequisite for a given individual to apply for refugee status, because the latter is not yet clearly admitted as an international obligation. Asylum should be considered as closely linked to *non-refoulement* as a cornerstone of the international protection system.

Also important is the principle of non-penalization for illegal entry as provided for by the 1951 Convention and which is an issue of current debates in most asylum countries including those of longer generous asylum tradition. Indeed, a refugee is a person who is generally not in a position to comply with immigration requirements before leaving his country of origin.

Voluntary Nature of Repatriation

As a consequence of the above mentioned principles, the principle of voluntary repatriation of refugees is internationally recognized and should be respected by all Governments concerned. Voluntary repatriation is referred to in the Statute of the High Commissioner's Office but not in the 1951 Convention nor in the 1967 Protocol. The OAU Convention concerning the specific aspects of refugee problems in Africa provided for voluntary repatriation issues. It focussed on the voluntary nature of the decision to return home and the necessity to "make adequate arrangements for the safe return of refugees who request repatriation."

For the security and dignity of the refugee population UNHCR favors organized voluntary repatriation as opposed to spontaneous returns with unknown consequences. However, in most situations spontaneous return movements take place as a result of a free-will decision made by refugees to return individually or en masse. UNHCR's organized movements reinforce existing spontaneous return movements and enhance safe and dignified return through agreed norms and procedures negotiated with the country of origin and the country of asylum. Unfortunately, in some other situations, UNHCR has to operate voluntary repatriation in less than minimal conditions because the situation in the country of asylum poses greater danger than the situation in the country of origin. The recent spontaneous return en masse of Rwandan refugees from the neighboring Great Lakes countries and the subsequent UNHCR organized evacuation of refugees from the former Zaire, are examples of such situations.

Minimum Standard of Treatment for Refugees

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This principle provides not only for a safe asylum but also for at least the same rights and basic help as any other foreigner who is a legal resident, including certain fundamental entitlement for every individual. The 1951 Convention establishes the basic standards of treatment which enable refugees to pursue a normal livelihood as much as possible, including such rights as freedom of movement, access to the employment market, to public education, to housing and to such other social benefits as may be available. In addition, the 1951 Convention also encourages States to facilitate the naturalization and the assimilation of refugees.

IV. Specific Principles

Access of UNHCR to Refugees and Returnees

Access to refugees and asylum seekers is an essential protection tool. Paragraph 2 of United Nations General Assembly resolution 319 (IV) of 3 December 1949 calls upon the Governments to co-operate with the Office of the High Commissioner in the performance of its functions and to inform the Office of refugee situations in their respective territories. States' duty to co-operate and provide access to refugee camps and settlements has been also reiterated by the Executive Committee of the High Commissioner's program as the only way for the High Commissioner to perform her humanitarian protection and assistance functions.

Current developments in refugee situations show how volatile the principle of unhindered access is. For that reason, the Executive Committee urged States to afford the Office and, as appropriate, other organizations approved by the Governments concerned, prompt and unhindered access to refugees.

Monitoring the consequences of the return has also been an area of active involvement with UNHCR. The UN General Assembly and UNHCR's Executive Committee (hereinafter the Executive Committee) repeatedly reaffirmed UNHCR's leading role for voluntary repatriation and admitted that the Office should have a legitimate concern over the fate of returnees following a successful voluntary repatriation operation. The Office should therefore be able to follow-up the consequences of voluntary repatriation in the country of origin. Furthermore, to implement rehabilitation and re-integration projects, UNHCR should have unhindered access to returnee areas.

Safety and Security of Refugee Settlements

Subsequent decades demonstrated that with the emergence of new refugee groups all over the world, the principle of security in refugee settlements is a key issue of the international protection system. The Executive Committee of the High Commissioner's program adopted a number of conclusions on the issue of military and armed attacks on refugee camps and settlements condemning all violations of the rights and safety of refugees and asylum seekers. The Committee urged the States and other parties to promote measures to enhance the protection of refugee camps and settlements. Personal security of refugees is under the responsibility of States which should "respect and ensure the fundamental human rights of refugees and asylum-seekers to life, liberty and security of persons as well as to freedom from torture or other cruel, inhuman or degrading treatment or punishment".

The 1969 OAU refugee convention on its part requests State parties to settle, for security reasons, refugees at a reasonable distance from the frontiers of their countries of origin.

Civilian Character of Refugee Settlements

Refugee camps and settlements should be free of any military presence including military devices such as arms and ammunition. This principle targets countries of origin and asylum, as well as refugees themselves and other parties to the conflict. This issue is addressed indirectly in the 1951 Convention, which imposes on refugees the duty to conform to laws, regulations and any other measures taken for the maintenance of public order in the country of asylum. The Executive Committee reaffirmed in its conclusions of 1987 these general obligations and specifically stated that refugees should abstain from any activity likely to detract from the exclusively civilian and humanitarian character of the camps and settlements.

This call of the Executive Committee was also addressed to the States of refuge to do everything within their capacity to ensure that the civilian and humanitarian character of these camps and settlements be maintained. The OAU Refugee Convention goes further by prohibiting subversive activities against any member of the African Organization, requesting OAU State members to apply this measure to refugees residing in their respective territories prohibiting them from "any attack against any State Member of the OAU, by any activity likely to cause tension between Member States, and in particular by use of arms, through the press, or by radio".

Staff Security

Staff security is tightly linked to the security situation in refugee camps and settlements. If refugee areas are located away from possible battlefields of the frontiers, if the issue of separation of combatants from civilians is properly addressed and if the staff has freedom of access to refugees, its security should be considered appropriate to perform the humanitarian mandate. The existing norms of international law, refugee law and humanitarian law, international instruments such as the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents of 14 December 1973, the Convention on Privileges and Immunities of the United Nations of 13 February 1946, provide basic principles for the humanitarian staff security. The Convention on the Safety of United Nations and Associated Personnel (adopted by the General Assembly in resolution A/RES/49/59 of 9 December 1994), although it has a major shortcoming as it meant to apply only to "peace-keeping" operations, will also be another useful instrument when it comes into effect.

The compliance by parties concerned is crucial as most of the humanitarian operations in today's context are being increasingly located in insecure areas. Asylum countries and countries of origin should take appropriate measures to guarantee the safety and freedom of movement and communication of the staff members of the Office of the High Commissioner in the accomplishment of their duties.

It goes without saying that protection of properties and assets of humanitarian actors in the field is an important component of the security measures under the responsibility of parties concerned.

UNHCR's engagement depends very much on the agreement of the Governments as provided for by the Statute of the Office or at a minimum, the acquiescence of the concerned Government. However, the above mentioned basic principles are essential for the High Commissioner to successfully carry out her mandate. They are the international protection tools the Office is constantly recommending to the competent authorities concerned and the international community.

V. Problems, Constraints and New Challenges

The traditional mandate of the Office of the High Commissioner is to provide protection and assistance to refugees and to seek "permanent solution" to their plight. However, the international community has progressively endorsed UNHCR's competence to deal with refugees fleeing from war and other situations of generalized violence. These account for the vast majority of refugees today, although many are fleeing combinations of both persecution and armed conflict. But the "challenge" is the restrictive interpretation of the refugee definition by many States which exclude as refugees, persons who have fled conflicts and generalized violence on the basis that persecution must be by government-linked agents. This position creates situations where some persons considered refugees by UNHCR are not necessarily eligible for "refugee status by the national refugee status determination procedures. Indeed, UNHCR believes that such victims of conflict and generalized violence need international protection and cannot be returned as long as the conflict or the situation of violence prevails.

The universal mandate of the High Commissioner has also been strengthened by regional arrangements such as the 1969 OAU Refugee Convention and the 1984 Cartagena Declaration which include in the refugee category people fleeing serious threats to their life and freedom. This inclusive approach and wider definition considers a refugee, any person who, "owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality".

The Executive Committee of the High Commissioner's program, while addressing in its 1982 session the issue of large-scale influx of asylum-seekers, basically endorsed the wider refugee definition which corresponds more to the evolving role of the Office during the last decades. The Committee also concluded that measures of protection including admission and *non-refoulement* should be adopted and assistance provided to such group of asylum-seekers pending a durable solution. The Committee went further by stating that standards of treatment defined in the 1951 Convention do not cover all aspects of the treatment of asylum seekers in large-influx situations. Therefore, the Committee established in its conclusion No. 22(XXXII)-1981 what it called "minimum basic human standards" of treatment of asylum-seekers in a situation of large-scale influx who have been temporarily admitted pending arrangements for a durable solution to their problem. These standards include:

- prohibition of unfavorable treatment solely on the ground of their unlawful presence in the country;
- recognition of their fundamental human rights in accordance with the Universal Declaration of Human Rights;
- provision of assistance and basic necessities of life;
- guaranty of their safety and security;
- facilitation of their voluntary repatriation;
- etc.

UNHCR's operational involvement for humanitarian reasons with the issue of Internally Displaced Persons (IDPs) has also enormously contributed to the change in the scope of its mandate. Although such involvement follows specific rules allowing UNHCR to focus more on its traditional mandate, the Executive Committee in its conclusions of 1994, encouraged the High Commissioner to continue the efforts of her Office to put into action its internal criteria and guidelines for UNHCR's involvement in situations of internal displacement as an important contribution towards a more concerted response by the international community to the needs of IDPs.

The lack of a legal regime for protecting IDPs, especially in situations where there is no responsible State, the absence of an institution in charge of the specific issue of IDPs' is a matter of concern. The UN General Assembly adopted on 20 December 1993, resolution 48/116 relating to the IDPs issue. The resolution reaffirms support for the High Commissioner's effort on the basis of specific requests from the Secretary-General or the competent principal organs of the UN, with the consent of the concerned State, and taking into account the complementarities of the mandates and expertise of other relevant organizations, in providing humanitarian assistance and protection to persons displaced within their own country in situations calling for the Office's particular expertise, especially where such efforts could contribute to the prevention or solution of refugee problems.

However, UNHCR's role in dealing with IDPs' matters remains exceptional as it is not within its traditional mandate. For the past five years, the UN Secretary General has retained a Special Representative for IDPs who contributed a lot in the understanding of that humanitarian issue and the search of solutions to the plight of this category of people.

Large-scale crises of the post cold-war era have also played a decisive role in the expansion of HCR's functions. Former Yugoslavia, Rwanda, Burundi, Afghanistan, Liberia, to cite only a few, are examples of complex emergency situations where refugee issues are intertwined with a range of humanitarian, security and broader political problems in a context of general havoc and human insecurity. The magnitude and geographical scope of these largely internal and politico-ethnic conflicts have rendered the humanitarian work more complicated and challenge the traditional protection principles built on the responsibility of the States.

In this context and because of the specificity of each refugee situation, the humanitarian community in general and UNHCR in particular needs to be more innovative in their approach to refugee problems. The key issue often here seems to be that of human security in a situation of generalized violence where there is an obvious lack of State authority. On the other hand, how to reconcile the security concerns of the fragile States hosting large number of refugees with international protection principles is also a crucial dilemma which the international protection regime is currently facing. The economic and social burdens as well as the environmental consequences of large-scale refugee situations are other serious matters of concern in the asylum countries.

In some regions of the world innovative ideas need to be introduced. In some others the existing principles need to be taught and enhanced. The recent history of UNHCR's refugee work in the field shows that it is timely for the international community to closely look into obvious hindrances to international protection and to seek solutions to strengthen the protection regime and the search for durable solutions to refugee problems.

The separation of the military from the civilian population and the problem of humanitarian access are the basic issues to be addressed. The recent lessons from the refugee situation in the Great Lakes of Africa, most particularly in the region of Kivu in the Democratic Republic of Congo (former Zaire) where civilian populations were taken hostage by armed combatants and militia men, showed how fragile the protection institution is when there is no organized State power behind it. As the international community has been unwilling to fill the gap by the use of dissuasive military presence to assist the humanitarian agencies, UNHCR had to take the unprecedented initiative of the so-called Zairian security contingent to preserve a minimum of order in the Rwandan refugee camps.

The High Commissioner has replicated this example in Tanzania as a response to the tension between Burundi and Tanzania caused by refugee presence in their common frontier. Indeed, UNHCR will employ a security package to maintain the civilian character of refugee camps and settlements in Tanzania by reinforcing the capacity of the local police, including the provision of equipment and the deployment of expatriate staff as liaison officers and police trainers. Here again, interfacing with the military may provide grounds for further cooperation.

Screening residual caseloads after a voluntary repatriation exercise may appear, in normal circumstances, as calling an existing refugee status of a group into question. However, confronted with the forced movements of Rwandan refugees lead by armed soldiers and militia men, UNHCR had to demonstrate its commitment to refugee principles and reassure the asylum countries that only persons deserving international protection amongst the remaining caseload of Rwandans are of concern to the Office.

The screening exercise is based on the exclusion clause. It is an *ad hoc* response to the protection crisis. It is an exercise whereby the Office evaluates the claim of refugee status on individual basis as opposed to the group recognition and considering the information gathered on the case, the office decides whether the exclusion clause of the 1951 Convention article 1(F) is applicable.

The concept of temporary protection applied to Bosnian refugees in Europe combines protection and return in a package which had facilitated international protection activities in Europe. Within this context of the Bosnian refugee crisis, while the so-called "majority" cases who have not faced grave human rights problems are returning in a orderly manner and in greater numbers to their homes, it is felt that the total implementation of annex 7 of the Dayton Peace Agreement signed in December 1995, will not happen unless the deadlock on "minority" returns is broken. At the municipal and cantonal level, UNHCR's "Open City" initiatives were established to assist the Bosnian leaders to come forward in allowing the safe return of minority groups in their areas. The Open City concept is designed to encourage, by positive conditionality, those municipalities that declare themselves open to encourage and to support the return of pre-war residents and to reintegrate them into the community through concrete measures.

UNHCR's function in monitoring the consequences of voluntary repatriation has also gained in importance in situations of voluntary return en masse. The High Commissioner is of the opinion that the international community should provide sustainable assistance for re-insertion programs on behalf of returnee communities and persons displaced as a consequence of war, as well as local communities in the returnee areas. More generally speaking, peace-building and reconstruction activities including support for a society respectful of human rights issues in a post-conflict context is a gainful investment in terms of human security. In Tajikistan for instance, UNHCR has provided human rights oriented training to judicial personnel. In many countries in Africa and elsewhere, training immigration officers and lawyers on refugee and humanitarian law is part of UNHCR's protection activities. Active steps towards institution and capacity building in potential refugee producing countries may help the governments themselves to take necessary action.

Measures of forcible repatriation and *refoulement* taken against refugees and asylum seekers in a context of conflict are often a consequence of insufficient co-operation with UNHCR and a climate of mistrust over international protection activities. In some cases, many emerging leaders who had seized power through violence have developed a kind of suspicious behavior vis-a-vis humanitarian, human rights and refugee principles, partly because of the composition of the refugee populations including opposition groups who are using refugee areas to rebuild their forces and recapture their lost power. The recent trauma of the Great Lakes of Central Africa is again an example of such mistrust.

VI. Conclusion

The basic principles of international protection which constitute the *raison d'être* of the High Commissioner's mandate are not negotiable. Indeed, lack of access to refugees and asylum seekers, forcible return, threats against the life of humanitarian workers, i.e. when conditions do not allow her to perform her mandate, the High Commissioner may be obliged to decide to disengage from the situation.

The innovative role of the Office of the High Commissioner wishes to continue to play needs to be supported by the international community as a whole. To that end existing principles should be disseminated for a better understanding by the new democracies and fragile States of their impact on peace and security. The older democracies and economically stable States should show the example. These principles need to be applied "in constructive, realistic, and creative ways, in cooperation with the States", as the High Commissioner put it before the last Executive Committee in October 1997. Indeed, the role of the States remains of prime importance, and I should quote again the High Commissioner as a final recommendation. "Had States fulfilled their responsibilities...and supported our actions more firmly and decisively, I believe some of the problems we encountered could have been avoided. Refugee camps should have been located well away from the border areas. The civilian character of refugee settlements should have been preserved by not allowing armed elements and political extremists to live with, and control refugees. Those who had committed crimes against humanity should have been brought to justice... These failures have contributed to further insecurity and conflict".

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OPERATIONS IN COMPLEX HUMANITARIAN CRISES

PROVIDE COMFORT

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for**

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I. EXECUTIVE SUMMARY

This paper encapsulates some of the key features of the Provide Comfort Peacekeeping Operation (PKO). It is not intended to be a comprehensive study of that humanitarian operation in Northern Iraq. It is an elaboration of some of the key features of the PKO as seen from the perspective of the Chief of the Military Coordination Center, located in Zakho, Iraq. Some of the factors identified as key for future successful PKO are: continuity, communications/liaison, role of regional powers, consistency of approach/policy, and the effective integration of time in all aspects of the operation. Detailed documentation of all factual assertions and substantive issues raised in the paper can be provided upon request.

II. BACKGROUND

Operation Provide Comfort (PC) was launched in April 1991 in the aftermath of Desert Storm. In response to Kurdish suffering at the hands of Saddam Hussein a US-led coalition of forces, unlike the Desert-Storm coalition, was established to resettle Kurds displaced on the Northern and Northeastern borders of Iraq following an aborted revolution against the central government of Iraq. For the purposes of this paper policy questions will be addressed only when they impact directly on operations the principle focus of this presentation. The paper will address certain aspects/instruments of the PC humanitarian effort including: Liaison efforts, Channels of communication, Security including "Safe Havens" and "No Fly Zones", Political Aspects Internal and External, Negotiations, The Element of Time and an evaluation of this effort from the Kurdish Perspective. For convenience the operation is divided into five distinct phases: Phase I Coalition Military Presence in Iraq 20 April-10 July 1991; Phase II July 1991-September 1991 Removal of Ground Forces from the Region; Phase III September 1991-July 1992 Withdrawal of Iraq from the Military Coordination Center (MCC); Phase IV July 92-September 1996 Pullout of the MCC and Phase V September 1996 to Present.

III. OPERATIONS

The operation was initiated on 19 April 1991 with an ultimatum to the Iraqi military to clear the area of Zakho Iraq of all military forces to a distance of 30 kilometers in all directions. They were told that all other Iraqi infrastructure institutions e.g. police, administrations medical and health authorities, could be left in place, as PC was not intended to tear down Iraq but to return her displaced residents to their homes. Except as indicated below, the Iraqis complied with this ultimatum as quickly as they could. It became clear later why they complied; they genuinely felt they could not take on the "United States" militarily again and win. They stated this several times to PC representatives in subsequent liaison encounters.

1. Liaison Efforts

In Phase I of the operation, the Military Coordination Center (MCC) was established in Iraq simultaneous to the introduction of forces. Its charter was to maintain liaison with the Iraqi military and the Kurds in order to reduce potential incidents between all sides in the cleared area in and around Zakho. During this phase of the operation the Chief of the MCC met with his Iraqi counterpart 4-5 times a day.

Every meeting focussed on security and humanitarian issues as they related to internally displaced Iraqi Kurds. The coalition had decided to use the existing Iraqi government infrastructure to execute all aspects of the humanitarian effort. This pattern was also followed by the United Nations and its supporting Non Governmental Organizations(NGO). NGO and humanitarian assistance arrived in Zakho almost simultaneous to the introduction of coalition forces (they had already initiated some assistance in the Zagros Mountains at the border of Northern Iraq and Turkey and accompanied the refugees down from the mountains).

The purpose of clearing Zakho was to create a Safe Haven for the Kurds to return to. This was to be accomplished by building a tent city or temporary home for the Kurds until they could return to their abandoned homes. At its zenith, the Zakho-tent complex housed 68,000 refugees. It was designed to house 100,000. It was to be the first of several similar tent cities to temporarily house refugees. As it became apparent that the Kurds would not come down from the mountains without serious reassurances regarding security the role of the MCC expanded to involvement in bringing together the two sides. Meetings were held between the Iraqi Generals and Kurdish tribal chiefs in the mountains. Escorted visits to the safe havens were conducted for the chiefs so that they would return to their people, reassure them and encourage them to come down out of the mountains to the safe areas. In the end, four cleared areas were declared from Zakho in the west to the city of Barzan in the East. Additionally, the Dohok temporary cleared zone was negotiated with the Iraqis.

The liaison channel with the Iraqi military proved to be more efficient than the UN-Iraq channel that was used by UN agencies.(UN was forced to deal through Iraqi bureaucracy in Baghdad) The channel with local Kurdish leaders was instrumental in convincing Kurds to return home and in so doing, shortening the time required for coalition troops to remain in Northern Iraq. The channels of communication that existed with the Kurds and the Iraqis at this time were multifaceted and almost directly linked to high levels in coalition governments. The Kurds had immediate access to world attention via the media that was swarming around the humanitarian effort. Some of the critical issues that developed in this aspect of the operation were:

- a. **MCC or CMOC** was a doctrinal question that was never really openly discussed; surely it would be before future PKO are conducted. The MCC performed many functions not assigned to a CMOC. Additionally, it appears that it was more advantageously placed in terms of having a direct influence on operations. The MCC was originally established to serve a very narrow purpose i.e. to establish liaison with the Iraqis and deal with issues like coordination of Iraqi crop spraying in the North. It was as the operation developed in the early stages of Phase I that the MCC took on more of the traditional role of the CMOC. As plans were formulated for the withdrawal of the forces, the MCC took on all the functions of a CMOC.
- b. **Inside or outside the fence.** From the very start the physical location of the MCC was problematic because its members included Iraqi military. The MCC/CMOC needs to be located where it is relatively secure : but, where all locals can get access to it. The center needs to have ready access to the commander of the security force and needs to be included in operational briefings. There was a very difficult problem regarding the sharing of "information" with all the players. Clearly there are limits to the sharing of security information that could compromise force future operations; but, the approach has to be liberalized when NGO or UN personnel could be a greater risk without benefit of the information.
- c. **The "Right Players".** In the beginning the principal players dealt with were the Iraqi military. However, as the operation unfolded, the participants in the exchange grew to include the Kurds,

various government officials including police, hospital directors, sanitation engineers etc. It was absolutely critical to be able to talk to the responsible individual for the function being addressed. If you did not get to the right player, crucial actions could be delayed for days.

- d. **Stay Behind Mechanism.** As the coalition planned for the ultimate withdrawal of their armed forces, it became obvious to most that some sort of stay-behind mechanism would have to be left in place. The various NGO activities had stated they would depart with the forces because of a perceived lack of security. NGO insecurity was based on the fact that they did not trust the UN security guards that were tapped to take over the mission from the forces. The guards were not equipped or trained to take over a complicated quasi-military security mission.
- e. **Disband the MCC.** This became a key issue in Phases II and beyond. If the humanitarian operation was to continue there had to be some visible security guarantee, that in the event of hostilities, the forces would return or the NGOs would be extracted.
- f. **Visible guarantee/tripwire.** While the MCC provided tripwire/guarantee functionality for the humanitarian workers, including UN agencies, for the military planner the MCC was regarded as an extremely vulnerable quasi-military asset that could be taken and held hostage by the Iraqis or anyone else in the area.

2. Other Channels of Communication

As stated earlier, the United Nations had its own channel working through the Iraqi central government which in every case proved to be much slower to respond to a fast moving humanitarian operation. For example, the NGO needed internal visas for their passports. The United Nations tried repeatedly to obtain them through the Iraqi MFA only to be stonewalled. The MCC asked the Iraqi general in the MCC to have the immigration authorities come to the MCC in Zakho to stamp the passports, which they did in 24 hours (UN authorities were not pleased by the coalition military "interference"). The MCC transported the officials to Zakho by US helicopter.

Other coalition governments had independent means of communicating with Iraq; some had never severed ties during the gulf war. There was a channel in the South with CENTCOM and the Iraqis but it worked completely independently from the humanitarian operation in the North. The Iraqi military in the North also had separate channels of communication from the Baghdad MCC generals. Many times, the MCC channel was unbelievably slow due to the fact messages were passed from Zakho to Baghdad and orders to the military were issued there from the central government to the MoD to be passed to the commanders on the ground in the North. Issues for consideration:

- a. **Criteria for establishment of communications.** In the case of PC it was clear that the coalition wanted to talk to the military authority that could change troop deployments in the North. MCC experience dealing with the Iraqis revealed that the Saddam government had placed Gen. Nashwan in Zakho to control these decisions centrally. All communications/demands to Nashwan were relayed to Baghdad and Baghdad issued the orders to the military to be relayed back to the Vth Corps in the North.
- b. **Local Perceptions.** - The local Kurds and other ethnic minorities in the North had to overcome their fear of security aspects of their operations being compromised. BG Nashwan was a known security

operative from Baghdad who they could assume would transmit any thing they said directly back to the highest levels of the central government.

c. **Who was the responsible authority?** In every case it was essential to determine who was the responsible authority. The factional splits in the Kurdish political factions provide an ample illustration of this point. No one in the West or for that matter in the Iraqi central government knew who really spoke for the Kurds.

d. **How can repressed minorities be heard?** There was no existing channel for the Kurds to be heard except for that provided by the news networks covering the debacle in the mountains. In subsequent Phases of PC this problem remained as the "Kurdish Issue", in the United States and many other Western governments, was usually handled, in embassies, by a junior DOS officer as a minority problem faced by the regional governments in question. At the Department of State there was/is no Kurdish desk despite the fact that they are one of the largest ethnic groups living in this area. The contemporary figures used at the time were: 4 million in Iraq, 5 million in Iran, 1.5 million in Turkey, 1.5 million in Syria and pockets of Kurds in Europe and Russia. From the Chief MCC perspective, the need for the Kurds to speak with one voice was not as important as it was in national capitals. The MCC could some times use the competition between the parties to speed some actions. But for policy making purposes at the highest levels. It was claimed by diplomats at the time that there was then a crucial need for the Kurds to speak with one voice; but, it could also be asserted that just as important was the need for the Kurds to be heard by competent political authorities.

e. **A Channel for all Time.** The military lament at the time was "we don't want CNN to be setting Pol/Mil priorities for the West". CNN, NPR and other news services swarming on the scene were the principal means of communication available to the Kurds. As the Kurds became aware that they could manipulate the press, they began to exploit it. If they saw press interviews taking place, "spontaneous" demonstrations would take place. In some respects, the media could contribute to the staging of the story and frequently presented security problems for coalition forces. But, this was the most effective way the Kurds communicated their problems to the West. The media used Turkey as a principle route of access to Northern Iraq to cover this story. The Iraqi central government would not allow news services accredited to Baghdad to travel to the North to cover this story. It wasn't in their interests to let this story out. When Turkey wanted to close down PC they easily could do so by imposing severe access limitations on the media. Now, when Iraq is confronted with the potential of coalition bombing attacks, they have eased restrictions on the press allowing them in to cover this humanitarian story. In times of conflict, what channels can be made available for oppressed minorities who usually are victims two times to international warfare? How can media access rights to the PKO be guaranteed?

f. **When to close the channel?** Near the completion of Phase I of PC, the NGO players were actively communicating with the MCC largely because it was in their interest to do so. If the MCC/CMOC remains, when does it close without destabilizing the humanitarian operation?

g. **Who speaks for the Kurds?** During all Phases of this operation there needed to be one voice who spoke for the humanitarian client? There was no single spokesman for the Kurds and that fact created major difficulties for the effort.

3. Negotiations

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In the first two phases of the operation negotiations were possible for two important reasons. The Iraqi military were convinced by US authorities and the MCC that the operation, "an insult to their National sovereignty" would end as quickly as the coalition could stabilize the situation, return Kurds to their homes or at least get them down out of the mountains. "It was in Iraq's interest to work with the coalition". The faster the operation would be concluded the quicker coalition forces would leave Iraq thus removing the "stone from our heart"(the insult to their national sovereignty). The Iraqis shared common ground on this with their Kurdish brethren who wanted the suffering in the mountains (estimates ran as high as 1000 deaths a day) to end. The Turks also sought a quick resolution to the problem. They wanted the threat to their border (potential massive influx of Iraqi Kurdish refugees) removed.

The decision to leave the Iraqi infrastructure in place to execute the distribution of humanitarian aid was not without significance. In spite of their most conscientious efforts by local government officials, many supplies particularly medical that were destined for the Kurds were siphoned off to Baghdad. In this and many other respects, the Iraqi Red Crescent organization was totally politicized. The Kurdish parties were willing to cooperate with the coalition because they could not afford to be left out.

In the early phases of Provide Comfort there were eight parties inside what was called the Iraqi Kurdish Front (IKF): KDP, PUK, KSP, IKP, KPDP, KTP, Assyrian Party and PASSOCK. There were at least another eight major parties outside the front including PKK, Association of Tribal Chiefs, other national versions of Iraqi Kurdish Parties, Hezbollah Party and various large minority groups in the nominally Kurdish areas including Yezzide, Armenian Christians, Turkomans, Catholics and several other religious sects. The value of these groups or parties varied based upon the phases of the operation e.g. the Tribal Chiefs and some religious leaders were essential in the early phases of the operation organizing the distribution of food in the mountain camps and the Zakho refugee camp and then ultimately convincing their Kurdish followers that it was safe to return directly to their home villages. Subsequently, the Kurds were reluctant to include the Chiefs in their movement toward democratic elections because of the autocratic nature of tribal rule. Additionally, the fundamental split between the two major parties KDP & PUK was never redressed; it was effectively moderated by the carrots that the coalition could dangle before each party. In Phase I of the operation, the IKF was able to convince the PKK not to interfere with the coalition humanitarian effort and they did not interfere in any way. Later, parties tried to exploit the PKK presence for their own political advantage. In the later phases of the operation, MCC representatives did not meet regularly with the parties; and, lost influence. Similarly, the Iraqi military quit meeting with the MCC in Aug of 1992 effectively ending any coalition communication with Baghdad. Issues:

a. **Key Players.** During all Phases of PC it was critical to maintain liaison with the key player for the appropriate phase of the operation. The key players can change during the course of the operation. One constant for Phases I & II was the Iraqi military. They were always included in the details of any operation that took place on Iraqi soil. If possible, they were held somewhat responsible for the successful outcome of any and all operations. The other key player in the MCC was clearly the U.S. In spite of the "coalition" label placed on all activities it was clear to the Iraqis that this was an U.S.-led coalition. The Iraqis were only interested in the U.S. view. When key players remove themselves or are otherwise not included in negotiations, the outcome of a given operation can be jeopardized. One of the touchiest issues to the Iraqis in the early history of the MCC was Chief MCC insistence that the Turks be allowed to become full members of the MCC. The Iraqis felt the Turks should not be included in the meetings unless the Turks invited Iraqi officials to similar meetings in Ankara. Finally, the Iraqis gave in to the demand.

b. **When do they play?** Key players should always be included when operations important to their interests are taking place in their geographic or functional area of interest. With reluctant key

players, sometimes operations in their area of responsibility can be undertaken in a way that will draw their participation. When do key players take over the operation e.g. UN.

c. **Inclusive Strategy.** The success in the early Phases of PC can be directly attributable to the fact that operations were conducted in such ways that all parties to the situation, particularly local political parties, wanted to be included in the PKO for fear of being left out.

d. **Carrots and Sticks.** The Iraqis had just experienced the stick and did seem to appreciate its power. The carrot for them was the factor of time. They were convinced by the coalition representative that the more they cooperated the quicker the humanitarian operation would end. For the Kurds the incentives were slightly different. They wanted the coalition to remain for years. However, in the short term they knew they had to cooperate to participate in whatever benefits the coalition presence had to offer.

e. **Limp Stick and Wilted Carrots.** The stick in PC went very limp over time as provocations/incidents went unpunished. Secondly, with each change of command on the coalition side, the level of representation and interest on the Iraqi side went down. With each changeover, PC headquarters would lose an element of institutional memory, which weakened the coalition's ability to maintain a consistent approach to the Iraqis. Another substantial diminution of coalition authority naturally took place as the UN assumed more authority over the humanitarian aspects of the operation. The carrots wilted vis-à-vis the Kurds when it appeared that the helper/humanitarian provider was losing interest in the client and were really indifferent to their daily lives.

f. **Time.** Time plays a critical role in all aspects of negotiations. The client has to be assured that the provider will be there for an agreed period of time necessary for the situation to stabilize. This period will vary from player to player. For PC the Iraqis considered this PKO an insult to their national sovereignty. They wanted the coalition security forces removed from the territory of Iraq as quickly as possible.

4. Security: Cleared Zones also known as Safe Havens.

The first 30KM cleared zone was declared and the Iraqis were required to remove all armed military from the zone. There were a total of four 30KM cleared zones declared in the North plus the Temporary Dohuk city cleared area, they were never referred to by the military coalition as safe havens. In the first cleared zone a tent city was set up to accommodate 100,000 refugees. At its peak it contained 68,000. Other camps were planned but not constructed as PC adopted the strategy of resettling refugees directly back to their ancestral lands in Dohuk. The direct resettlement option was made possible by bringing together Tribal Chiefs in the camps with the Iraqi Generals working with the MCC. Tours of the evacuated Kurdish cities were arranged for the chiefs by the MCC in coordination with the Iraqis. The Chiefs, after the tours, were supposed to return to the mountain camps and convince their people that it was safe to return home.

It only became apparent in the later stages of PC that all of the coalition-cleared areas in the North were located in Bardinan a traditional KDP political stronghold. Subsequent area/provinces liberated by the Kurds themselves i.e. Erbil and Sulaymaniyah were never part of the coalition ground effort but are clearly traditional Kurdish areas. These two provinces were the source of the majority of the

political strength of the PUJ. This was to become a more important factor after coalition troops were withdrawn from the North and Kurdish political parties were left to their own devices. Rules were established for the cleared areas and the camps e.g. no weapons could be carried openly by the Kurds unfortunately, this rule was not effectively enforced by all members of the coalition in subsequent cleared areas. Similarly, after long negotiations with the Iraqi military on the ethnic makeup of the police force, all policemen had picture IDs and were allowed to openly carry weapons in the cleared zones. Kurds would be proportionately represented on the police force. Iraqi military and other uniformed officials, Baath party members could move freely in the cleared zones as long as they were not armed. The arrival of some Arab and Shiite refugees in the Zakho camp caused a major riot so they had to be dealt with separately. In the early stages of PC it was never sure whether the security forces provided to the coalition would be adequate to the task. Consequently, there were a lot of duplications and more forces were deployed than were actually required to do the job.

No one really knew to what extent Saddam's forces would resist. Saddam's forces did not fully appreciate the interdependence of his security apparatus. When the Army was removed the Police were weakened. When the police were brought under control the clandestine security force Mukhabarat and the Baath party were put at risk. It was only a matter of time and the Iraqi security apparatus in the North collapsed and the Kurds took over more and more of their own security operations. Some lessons to be discussed:

- a. **Rules for weapons.** ROE need to be firmly established for all participants in the PKO.
- b. **Human rights in the Zones.** - Human rights in the zone were never specifically addressed. It was generally assumed that individuals would be treated with respect and dignity to an U.S. standard. The term U.S. is used because the situation in some of the existing, non-temporary camps in Turkey would not be good models. The question of employing human rights monitors in country or in the camps was not discussed; but it probably should have been. It would have been useful if some agreed standard of treatment would have been agreed and monitors put in place before the coalition forces departed.
- c. **Consistent Enforcement.** All parties to the humanitarian operation need to consistently enforce the rules. In certain areas of PC coalition members did not uniformly enforce the agreed rules and this caused casualties among the client. But, most importantly it reduced the coalition's credibility with the Iraqis. This lack of consistency grew with the normal personnel turnover of PC staff.
- d. **Who is allowed in the Zone?** After the first cleared zone was established in the North and a tent city for refugees was begun, the Haven drew unanticipated clients from the South of Iraq. There was a need to establish eligibility requirements for the refugee center so that they would not become magnet cities. As early as possible, a force from the local population should execute security. Rules also have to be established for the Press who were at some risk during the operation and could cause potential security problems if they become aware of future military operations of coalition security forces.
- e. **What level of security is guaranteed?** A necessary part of the in country ROE should be the rules clearly stated to all participants outlining a standard of protection. A related subject is whose rules do you enforce? Do Iraqi/Kurdish rules govern or coalition military laws enforced? This is not only a question of international law but also a question of national sovereignty.
- f. **Are safe havens the right approach?** Safe havens/cleared zones may be the wrong approach. They may attract when the overall goal is to resettle and stabilize. The havens in the North attracted other

g. oppressed minorities to the camps. Some of these "displaced persons" were coming from Iraqi government controlled areas.

g. **How lasting the commitment/benefit?** Again time is a very important factor/consideration and will vary with each participant. The client, in this case the Kurd, wants you to remain indefinitely. The military provider wants to get away from the tar baby that is degrading their war fighting capability as quickly as possible. There is clearly a need for a well determined middle ground. Even some NGO were not interested in committing long term to a presence in Northern Iraq. When is the appropriate time to transition the security mission to local forces?

5. Security: No Fly Zones.

Before Operation Provide Comfort began the Desert Storm Coalition had declared an Iraqi No Fly Zone in the South at parallel 32. To facilitate the Humanitarian operation in the North the PC coalition declared all airspace north of 36 as a No Fly Zone (Both No Fly Zones were subsequently enlarged). The implementation of the Zone in Phase I allowed coalition aircraft to deliver humanitarian aid to the Kurds in the mountains. It had the secondary effect of reassuring the Kurds that Saddam could not gas them or otherwise harass them from the air. Through Phase I & II the air activity was made more relevant and real to the Kurds through the use of helicopters which played a pivotal role in Jan 92 delivering food (over 120 metric tons of food, clothing and relief supplies to over 110 villages/settlements) to Kurds isolated by the record January 1992 snowstorm in the North. Overall helicopter operations were severely restricted in April 94 following the shoot down by friendly fire. It was also in Phase II that the Kurds could begin to see the counter productive aspects of the "air cover". Beginning on 5 Aug 1991 through the end of November 1991 the Kurds in their resettlement villages/areas were bombed/strafed 97 times by Turkish aircraft. The simultaneous existence of the "air cover" conveyed the mistaken impression that the coalition was facilitating these attacks. Kurds assumed that the US-led coalition had the ability to stop the attacks. These attacks continue to the present and were accompanied, in the summer of 1992, with Turkish ground attacks. Additionally, in the fall of 1991 the Kurds frequently were locked in ground combat or being subjected to Iraqi mortar and artillery attack as they liberated Erbil and Suleymaniah while coalition aircraft flew overhead "cover" with no response for the beleaguered Kurds. The No Fly Zones are accomplished at tremendous costs (political and financial) to the coalition particularly the effort out of Incirlik Turkey and give rise to numerous serious issues:

- Costs of No Fly Zone.** If reports are to be believed, the costs for maintaining the air cap in the North and the South are astronomical. When does it become feasible to end the coverage or pass the tasking to other regional players whose security interests are more directly at risk.
- Can it be done more effectively/efficiently by other means?** Since very little of what is accomplished by the air cover is visible to the client could these operations be conducted more efficiently by more remote means?

c. **Relevance to the PKO.** Many high level decision-makers involved in operations of this type favor a war conducted from the air because they have the impression it is a bloodless and surgical operation. It surely appears that way on the ground too. In the subsequent phases of PC, no one on the ground in northern Iraq believed that the air cover would ever respond to a humanitarian violation/provocation. The question is how to make it relevant to the PKO on the ground. The effective integration of helicopter operations in the transport of all types of humanitarian aid was one

highly effective means of connectivity used in PC. Another is allowing very unrestricted use of the helicopters by the NGO on the scene.

d. **Counter productive.** Certain aspects of the air cover were counter-productive during PC even as early as in Phase I. This occurred when Turkey initiated bombing "safe havens" allegedly to attack PKK insurgents operating out of northern Iraq. Unfortunately, the Kurds viewed the coalition air cover as a facilitator of these attacks in which many innocent Kurdish civilians were killed. The Turkish air attacks in northern Iraq also reduced our credibility with the Iraqis. We were declaring no fly zones but had no control over Turkish excursions into the zone. At some point the coalition should have reevaluated the benefits of continuing this component of the air cover. There may have been an opportunity to pass the mission to the regional power.

e. **What does the air cover prevent?** Clearly there was a need on the ground to demonstrate what the air cover/no fly zone prevented. This was never done in PC. The current question should be does that Iraqi air force even have a fly capability? If it has, it did not use it against recent Iranian air attacks. If the cover is to ensure Iraqi compliance with UN sanctions, should the UN have a role in the operational control of the air cover? Should the UN be allowed to have a finger on the trigger?

f. **No Drive Zone.** The real test of the efficacy of the air effort may be the establishment of a "No Drive Zone" on the ground enforced by the air cover. Such a zone would preclude the introduction of military vehicles (tanks, APCs, Artillery, ADA and lookalikes) into the exclusion area. Enforcement of the rule would be accomplished by the air cap whose rules of engagement would be eased to the point of being able to engage clearly identified hostile ground targets. Such a measure would also require consent on the part of regional players who currently limit the types of ordnance that aircraft are allowed to carry. The Zone could be easily enforced in a situation like Northern Iraq where the lines are clearly demarcated and the Kurds and miniscule amounts of military equipment.

g. **Tripwire.** Is there a need for a tripwire on the ground? When does the institution of the tripwire constitute a potential hostage?

h. **What are the lasting benefits of establishing a no fly zone?** To the person on the ground, there do not appear to be any lasting benefits to having a high-altitude air cap over their country.

i. **When do regional restrictions on coalition aircraft launched from coalition countries become so onerous that the no fly zone should be removed or executed by other means?** The best example of the futility of trying to balance regional restrictions with coalition policy is provided by Turkey and others today. They have severely limited coalition ability to bomb Iraq from bases in their country. More importantly, they show to Iraq, a clear lack of consensus on the policy.

6. Security: The Embargo.

During Phase I of PC, it became clear immediately to everyone on the ground who had anything to do with observing/implementing any aspect of the Embargo that it was a sieve that was regarded by local regional officials as a business opportunity. In the first weeks of Phase I Kurdish checkpoints detained several trucks transporting embargoed items. When reported to HQ of Provide Comfort the answer was to release the trucks, that checking trucks was a "UN function". Illegal trade in fuel over the Khabur Bridge into Turkey was an open secret. The queue of trucks waiting to enter or leave Iraq with saddle tanks for fuel smuggling averaged 600 per day sometimes stretching for kilometers in both

directions. This traffic proved to be an excellent source of revenue for the IKF. It did little to help the ordinary Kurd obtain food at the government-controlled price. The situation was made doubly difficult for the average citizen when Saddam established his own internal blockade of the Kurds in the fall of 1991. The embargo is a very blunt weapon and its use raises fundamental issues:

- a. **When should an embargo be used?** At what point in a post conflict environment have the weak and innocent suffered enough. Should the use of an embargo be limited to the pre stages of armed conflict as a deterrent measure only? The embargo proved to be a very ineffective tool against the central government. Saddam has been able to import with impunity the items he deems critical. Illegal business activity over the Khabur Bridge flourished to a point that the money it generated exacerbated the rivalry between the Kurdish parties as all ordinary citizens of Iraq suffered.
- b. **Should an embargo ever be used in PKO?** Following armed conflict? Are there possibilities for implementing targeted exceptions?
- c. **Time constraints.** As in every aspect of these kinds of PKO the embargo must have established time constraints. At some pre-agreed time the embargo must be declared a success or failure and its provisions lifted.
- d. **What are the selection criteria for the supervisors of the embargo?** Can any regional power be trusted to implement the embargo in their region or should it always be implemented by third parties or by the United Nations.

e. **What sanction is available to be imposed on violators of the embargo? How responsive should they be?**

f. **Exceptions for oppressed minorities-** During PC, it was argued unsuccessfully for the establishment of a Kurdish quick-fire channel for exceptions to embargoed items. Why retain the embargo against the endangered population. Now may be the opportune time to end the embargo in the North and create an economic opportunity for the Kurds by allowing them to import anything they want and resell items, if they desire, to the Saddam government. In a related sense, the West may want to enable the Kurds with economic assistance in such a way that Iraqi Kurdistan could become the economic miracle that would become the envy of other Iraqi citizens.

7. Political Aspects.

The most critical aspects of the political situation will be covered in the Kurdish Perspective. This section will be limited to highlighting some of the most critical political aspects as they pertained to the initial phases of Provide Comfort.

- a. **Internal Political.** It was not absolutely essential to the operation to have a complete grasp of the internal political situation in Iraq to execute the humanitarian piece. Overtime, however, it became dramatically apparent that a lack of understanding of the internal politics of the area prevented any real solution to the overarching rivalries between the two dominant Kurdish parties PUK and KDP. Their willingness to engage with each other during the early phases of the operation was principally due to the fact that they could not risk being left behind. As it became apparent to them the limitations of US interests in their future area their historic rivalries increased and the US carrot wilted. The creation of the Iraqi National Congress, at US insistence, was intended to incorporate all

elements of Iraqi opposition. But what it really accomplished was to paper over the profound differences between the two most important players in the North, the PUK and the KDP. Similarly, as Iraqi provocation increased (internal blockade, withdrawal of support to Kurdish provinces) with no response from the coalition, the coalition stick became limp. The continuous turnover of commanders and staff at HQ PC was also an important factor in the coalition's lack of continuity and therefore a consistent approach to Iraqi authorities.

- i. **How to redress underlying political causes?** Do the military forces involved in PKO have any role in addressing underlying political problems endangering the humanitarian effort?
- ii. **Who speaks for the minority?** How critical is it in any PKO that the client speaks with one voice to the Peacekeeping force.
- iii. **Can minority deal directly with the central government?** Should the PKO CMOC or MCC apparatus be involved in client communications with the central government? Initially this go between role worked very well but it could not go on indefinitely. A similar question arises when there are revenues generated as a result of the PKO.

b. **External Political.** The interplay of the regional powers, particularly Turkey, Iran and Syria was absolutely critical to Operation Provide Comfort. Turkey proved to be a willing participant in the early phases of the effort because it was in her interest to do so. As the operation moved forward successfully and Kurds were removed from the Turkish border, Turkey became more and more obstructionist. The high point of Turkish early interference was marked by the actual bombing of Kurdish refugee camps in northern Iraq in Aug 1991. By the end of Aug, combatant elements of the coalition that had been involved in Northern Iraq and relocated to Silopi Turkey were forced to withdraw from Turkey altogether because of Turkish restrictions on any training activity coalition military forces wanted to conduct in Turkey. Turkey also played a key role in influencing internal domestic Iraqi Kurdish politics by manipulating the export/import controls at Khabur Bridge and limiting the access to Northern Iraq by the press. Restrictions on international press access to the North of Iraq destroyed the Kurds ability to be heard internationally. Even in Phase I of the operation, coalition/ (US) MCC efforts to communicate to national command authorities was adversely affected by the changes in command at PC headquarters and the filtering of all operational reporting on the problem through AMEMB Ankara. Ankara viewed most aspects of help to the Kurds as a threat to the national sovereignty of Turkey. For obvious political reasons the Kurdish refugee problem in the east of Iraq, on the Iranian border, was not worked by the US-led PC coalition. While the numbers of Kurdish refugees were easily as large as those were in the North, only the German government and later the United Nations took on the issue of help to these refugees. These issues raise serious questions for the military handling of future PKO:

- i. **Role of regional authorities.** What agreements need to be made with local regional authorities before the PKO is started? At least one country in PC wanted to opt out of the operation after the perceived threat to their national border eased. What agreements are needed ahead of the operation that outline national responsibilities to the entire effort for the duration of the PKO.
- ii. **Reporting channel for PKO.** PC had difficulty maintaining direct access to national command authorities once the PKO was no longer a "front page event". Following the withdrawal of coalition forces from northern Iraq, all reporting on PC was filtered through AMEMB Ankara.

iii. **Impact of policy on practice.** One of the most serious difficulties encountered in PC that was caused by policy was the decision not to allow the security forces to engage in reconstruction of Iraqi infrastructure in the Kurdish areas. The forces had available to them a very robust engineering capability but its use for humanitarian purposes was constrained by policy. Similarly, the forces themselves when they had little to do otherwise as the security situation was stabilized, could not be used to help the local population to dig out and rebuild.

iv. **Arbitration, where available?** How does the force seek general arbitration of policy disputes in PKO. Is the inter-agency process responsive? Should there be overarching principles agreed before the start of any PKO e.g. whatever helps to relieve human suffering is allowable.

8. Time.

Time played an extraordinarily important role in the successful completion of the early phases of Provide Comfort. Most senior military officials associated with the operation rate it highly successful. From their perspective it probably was, they deployed quickly ended the Kurds initial suffering and exited the country with no casualties to ground fire. There were some unfortunate, probably preventable, mine injuries and several fatal accidents. In all negotiations with the Iraqis it was emphasized that the better they cooperated the quicker the coalition would declare victory and leave Northern Iraq. It is believed that the Iraqis finally came to believe that it would be to their advantage to work with the coalition in the interests of the timely departure. The extent of their cooperation was amply illustrated by their willingness to allow, after long negotiations, the US Chief of the MCC to inspect all of the Presidential Palaces in the Al Almadiyah cleared Zone. They subsequently agreed to their soldiers being allowed to remain inside of the Zone guarded/escorted in and out of the palace complexes by US military escorts. In Phase II of the operation, they provided unarmed military personnel to the MCC to do mine clearing in the North under guard and supervision of Kurdish peshmarga. This contrasts quite sharply with their posturing today with UN inspectors and provides an excellent example of the extent to which the coalition stick has wilted. Surely time has played a critical role in all aspects of the current dilemma. Today's inspection process in the eyes of Iraqi authorities must seem endless. Similarly, over time, the demonstrated will of the coalition or the United Nations to respond to Iraqi provocations has been weak. The issues raised by time element:

a. **How to make time work for you.** Time as used in PC was a very effective tool in getting a reluctant Iraqi central government to cooperate. It could be argued that the situation today with Iraq is in some ways adversely affected by the element of time. The Iraqis clearly see no end to inspections (insults to their sovereignty) and therefore are reluctant to continue to cooperate. Maybe a timetable with performance incentives and realistic sanctions for non-compliance would be a useful tool in the current crisis. A timetable would have the additional effect of causing our policy to become more proactive rather than reactive to Saddam's latest move/provocation.

b. **Every aspect of any PKO must have a well-defined beginning and end.** It is in the interests of all parties to the conflict to have well established time markers for the PKO that cannot be exceeded without agreement by all parties to the effort. The current situation with Iraq regarding inspections provides ample evidence of the need for time constraints and a comprehensive policy that is consistently executed.

c. **Consistency complements time.** The ultimate success of any effective PKO needs a well thought-out strategy predicated on an articulate policy that is consistently carried out in the country. In the case of Provide Comfort sometimes it was necessary to remind both sides of the need to focus on the humanitarian origins and issues of the PKO. The Dessert Storm coalition did not go to war over humanitarian issues but the PC coalition was uniquely established and specifically deployed for the purpose of alleviating human suffering.

FORMALIZING RELATIONS BETWEEN DOD AND OFDA IN COMPLEX HUMANITARIAN CRISES

An Interview with Tom Dolan, OFDA

Conducted by Anita Parlow

Discussion Paper
for

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Civil-Military Relations in Complex Humanitarian Crises
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Anita Parlow: Please describe the evolution of the core relationships between DOD and OFDA.

Tom Dolan: The US Government's response to the humanitarian crisis affecting the Kurdish people of northern Iraq in 1991, ushered in a new era in civilian-military operations. With civilian populations now primary targets and large numbers of communities displaced combined with famine and violence as a standard for achieving political objectives, the era of "complex crises" focused our attention. My perspective on this evolution has been through the inter-agency planning process between the Department of Defense (DOD) and the Office of U.S. Foreign Disaster Assistance (OFDA). Planning for such operations continues to be an ongoing challenge and regrettably in some instances, constitutes an afterthought to "Lessons-Learned." However, it is accepted by many military and OFDA leadership as a critical mission requirement for both our agencies, as well as the diverse NGOs, international organizations and agencies involved.

When I look back at humanitarian relief activities in northern Iraq in 1991, I realize how far we have come in not only the efficiency of these operations but in accepting the value-added of an interagency approach. Provide Comfort was an interesting operation since the coalition found itself on both the war fighting and humanitarian sides of the conflict. Although the humanitarian operation unfolded with little advance planning, the operation did achieve most of its objectives on the ground primarily due to an institutional understanding by the military and humanitarian agencies that a joint effort was essential to provide both security and relief.

It is true that the civilian-military working relationship was initially, to put it diplomatically, less than harmonious. The organizational priorities, perspectives and culture were foreign to each other, but in forging our working relationship, the civilian and military agencies confirmed the necessity of making this relationship work. It was clear that continuing and expanding this working relationship between DOD and OFDA would remain a priority with the likelihood of ongoing civil wars and complex crises in the post Cold War era.

In Northern Iraq, we found ourselves in a situation with an absence of interagency planning within the US government. Our capabilities have improved primarily due to an open and transparent working relationship that has evolved between DOD and OFDA. Other agencies, such as Justice or ICITAP may experience a similar history in these civil-military scenarios. But what is always true, is that once you get down to the tactical level and field levels, for both of our cultures in OFDA and DOD there is a task oriented mentality for getting the job done.

The MCC did not have the expertise and capacities to distribute food and provide emergency relief. You don't expect a two-star general to be versed in these kinds of tactical and strategic activities. OFDA became a consultant group although most of the work occurred at the field level rather than at the unified command. Over time, because of so much overlapping, we realized that we needed to institutionalize our relationships at the unified command and made certain to stop at EUCOM and debrief. Our strength is at the strategy levels which we contract with the NGOs. In Zakho, the strength came from military people serving on the DART teams. This was emblematic of the importance of our relationship with DOD. If it's not nurtured, if it doesn't have names and contexts, it's going to have to start all over again in another complex emergency.

DOD has had to interface with what appeared to be a seemingly endless array of diverse players such as scores of NGOs, ICRC, UN agencies both operational and political, (WFP, UNICEF, etc.), multinational force structures, diverse political interests and associated US government agencies, including

OFDA. On the other hand, OFDA and the other humanitarian agencies, had to learn how to work within the framework of a military approach that is far more structured.

AP: Following Kurdistan, how did the military-humanitarian interface improve as an institutional matter?

TD: With the humanitarian crisis in Somalia in '92-'93 soon following northern Iraq, the need and benefits of interagency planning were fresh from the "Lessons-Learned" in the Kurdish operation. Planning for Somalia had functionally begun months earlier in August 1992, during Operations Provide Hope in Mombassa. It was at this time that OFDA's Disaster Assistance Response Team (DART) and the Multinational Task Force combined efforts to break the famine by air-lifting and distributing through NGOs the food supplies and commodities to key sites throughout the south of Somalia.

Provide Hope required the capability to better distinguish and mesh roles between the civilian and military components, and developed an understanding that, at least for planning purposes, these humanitarian crises were not single-agency US government operations. Each of these requires a policy that would link the political agenda with the humanitarian and military components to achieve the goal of the mission. With Presidential Directive 56, the US attempted to bring coherence to humanitarian operations. An understanding was developing that the military intervention had to be coordinated with the humanitarian agencies.

AP: What are the similarities and differences between combat preparation and preparation for complex crises?

TD: Much of the planning requires the same elements for combat: developing a course of action, force protection issues and logistics requirements. The essential difference is that the field operations have to be able to shift from a war mode, where security is at issue, to respond to non-traditional military responsibilities in a matter of moments. Additionally, the purpose of the operations is to provide stability and restore the capacity of civil society to function. These complex emergencies, then, require a different universe of players, appreciation for a distinctly different hierarchical structure, an understanding of the political and cultural contexts on the ground.

AP: So, at the operational level everyone pulls together because they have to. What is useful at the unified command levels?

TD: One of the realities of DOD is when you get beyond the tactical level, at the operational, level into the CINCDOMs, this planning venue is significant not only for the course of operations but also for its potential to influence policy. The problem is how to get the information from the ground to the CINC. The decision to assign an OFDA liaison, me in this case, to PACOM was designed to explore the value of having a humanitarian officer at a geographical CINC to assist with planning. My role was to work with the Operational Planning Teams (OPT) and the Crisis Action Teams (CAT) to help shape the issues that were brought up at the senior levels.

What OFDA brings to the table is an understanding of the capacity of affected populations to cope and handle their own situations. For example, there is a tendency for outsiders to go into a war-ravaged country and assume the displaced are only victims. But all peoples have their own ways of coping. If an operation undermines local coping skills, it has provided dramatic damage.

AP: What are the most significant issues that need be addressed at the CINC level?

TD: We want to ensure that the humanitarian component is effective and meets the needs of the most affected population. We believe in letting whoever does things best do them. To go into complex emergency with high numbers of troops for short duration can cause more disruption than stability. JTF commanders have become more sensitive to the impact of large amounts of personnel and equipment. There's a perception that your longevity is great and the scope of your activities yet greater. The assumption of both affected folks and NGOs is that you're going to respond to every nuance and need. They see large military vehicles sitting in a port with an urgent need for food delivery. Naturally the perception is that those trucks are going to be used to haul food. So it's trying to make sure that commanders are aware of perceptions as well as a well-articulated mission statement.

AP: Should the JTF commander be allowed greater flexibility?

TD: The JTF commander must be authorized to make decisions on the spot. Not just for emergencies but in most contexts. The NGOs typically ask the military to provide support for their operations. For example, the military frequently assists NGOs with airlift, providing transport for the movement of NGO personnel or host government people. Although it might appear that the military has expanded its role, in essence these activities could cut short the operation by enhancing the effectiveness of the response. It is a deliberate mission shift rather than a mission creep.

AP: And coordination?

TD: The CMOC or CIMIC -- the Civil-Military Operations Center has improved since the Kurdish operation. But whether it's a HAC, UN Humanitarian Operations Center or a CIMIC, what matters is that a market place exists where agencies and NGOs with assets and capabilities can coordinate with all of the other players. The civilians assume that the military has access to information regarding security, location of displaced populations and other matters essential to an effective operation. Access and exchange of information is a critical role for the CMOC. The CMOC should also plan the transition first to the humanitarian agencies that will remain after the military phase out and ultimately to the local populations who will in the end inherit the net effect of the emergency response.

AP: What components of the process do you want made more conscious?

TD: I recommend several key personnel changes. Both the geographical CINC and the JTF commander, in major operations such as Haiti or Somalia, will typically have a political advisor, the POLAD. He should also have a humanitarian policy and operations advisor so there's an awareness of the commonality of issues between the military, the State Department and humanitarian players at both the field and CINC levels. This should be standardized to enhance operations and to allow information gained through the operations to influence policy.

An element we deal with that is troubling is that the military has so many personnel changes. You develop a good relationship and there is a changing of the guard. And you have someone coming in who is familiar with it-- from the doctrine point of view or from the War Colleges but lacks an operational context. Personalities are a key element in this relationship. In the NGO community, the humanitarian

agencies, the staffs at the highest levels don't change that frequently. But in the military, you're dealing with an admiral who may be there for eight months, or twelve months or fifteen months, you're dealing with a whole new group. So we're trying to go from exercises which focus on specific staff to how do we institutionalize what we've learned.

AP: What about security issues for the humanitarian agencies?

TD: For many of the NGOs, particularly in Somalia, there was a sense that the military was a 911 -- that whatever instability or security issues the military would take care of it. This is not and cannot be the case, which poses significant questions to the humanitarian community regarding their responsibility for their own security. This is one area that should be discussed in the planning process, in part, based on past experiences in Iraqi Kurdistan, Somalia and Bosnia.

The JTF needs a clearer vision of what it is walking into and therefore what to plan for. Here the problem of military rotation comes into play. When there are new people, they can't look at doctrine for situation awareness. The doctrine doesn't provide guidance on nuances. Rarely does a complex emergency come suddenly. Civil wars are usually the sequelae of festering events. An understanding of the underlying events that gave rise to the dilemma, understanding of nuances on the ground, and ability to provide information to policy makers to enhance the political context of the mission are critical to ensure efficient response operations.

AP: What about information sharing?

TD: Unless there's a security reason not to share information, a program of regularly developed and shared information should be made available to all of the players at the same time. There needs to be more coordination of information with DOD. For example, the NGO community would want to know whether satellite information might assist with the location of refugees such as in the Congo/Zaire situation. Whether DOD knows or not, there is a perception that such information exists. A more open program of shared information would enhance our ability to operate in the same theater. Whether the military has information or not, a perception exists within the NGO community that DOD knows. If we're sitting around a table with a sense of "I've got a secret," then the essential ingredient of transparency is lost -- causing potential problems for the success of the mission. Far more shared information is essential.

AP: What is the optimum for civil and military relations in complex emergencies?

TD: After Rwanda we see a strong desire for justice. A component of humanitarian activity has to be justice -- not simply to separate warring parties until political winds change. Our own humanitarian workers feel a sense of burnout and trauma. What makes some difference is not only that you made some contribution to the solving the problem but that the creators of the problem are brought to justice. This is not only a different song for a different day but requires us to think harder about how to include human rights components in these complex emergency responses. We must constantly ask ourselves how an intervention fits into the larger political picture. How can we respond to a series of human tragedies in the post-Cold War era in a manner that would forge peace into the 21st century?

MILITARY HEALTH SYSTEM 2020 FACT SHEET

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Discussion Paper
for

**Conference On
Civil-Military Relations in Complex Humanitarian Crises
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Military Health System 2020 (MHS 2020)

Background

In early 1994, while reviewing the construction progress for one of the newest healthcare facilities in the MHS inventory, a senior military medical officer questioned whether the very modern state-of-the-art facility would be potentially obsolete in terms of how health care would be practiced in the future. He wondered whether or not DoD would build a facility like this again and, if not, what the MHS facilities of the future would look like. The senior officer posed this question to his health facility planning staff who responded with their own set of questions concerning what the health system of the future would look like--their rationale being that form follows function and function is the consequence of the health system. The senior officer challenged his staff to develop a method to answer his very fundamental question and MHS 2020 was the outcome of that challenge.

The MHS 2020 working group was initially chartered in January 1996 by the Assistant Secretary of Defense (ASD) (Health Affairs). The primary charge to the work group was to create an ongoing process that explores long term visioning and strategic requirements for the Military Health System. The project, currently in its third year, envisions potential future conditions to enable today's MHS leaders to make the best possible decisions.

Over the past two years, the MHS 2020 team has developed an integrated picture of what the world, the U.S. health system, and military health might look like in the year 2020. One of the major products from MHS 2020 to date is a set of scenarios encompassing global and military specific topics. The scenarios have led to the development of a draft MHS Vision and a set of audacious goals and strategies. The MHS 2020 draft vision and goals directly influenced the recently revised MHS vision and strategic plan. The second year produced a provocative study on the future implications of advances in biotechnology and nano-technology, and an automated simulation model (SIM 2020) of the military health system.

The MHS 2020 scenarios are the framework and foundations for the entire project. The team developed four major scenarios ranging from extremely positive to very negative potential futures. The first scenario, the **Turbulent Third Wave**, is a positive extrapolation of the present. It contains potentially dangerous developments, but on the whole it represents the optimistic side of current expectations. The **Dark Side** scenario extrapolates today's problems and fears into a very negative future. It is a more dangerous and alarming future than we usually like to imagine. It is unlikely that the future will contain this much "bad news," but taken individually, most aspects of this scenario seem disturbingly plausible. The third scenario, **Global Mind Change**, challenges our traditional assumptions about what a successful future could be. Cooperative efforts to resolve and suppress conflicts and promote sustainable development prove reasonably successful, forcing a fundamental rethinking of the role of military forces and military health. The final scenario, **Technology Transformation**, suggests momentous advances in technology and a potential for highly positive social improvements worldwide.

The MHS senior leadership recognized the potential implications of biotechnology and nanotechnology when they directed the initiation of the study in late November 1996. After nine months of intensive research and exploration, the study group's central conclusion was that advances in biotechnology and nano-technology will fundamentally transform military health over the decade ahead. They compared these advances to other fundamental shifts in historical technical revolutions on the same scale as the development of the printing press, the internal combustion engine, and the microprocessor.

The computer has become the key tool accelerating progress in biotechnology. At the same time, genetic, evolutionary and other biological processes are providing new models for the development of computer hardware and software. The group concluded that we are in the early stages of what has been called the bionic convergence – the convergence of the biological revolution with the information revolution, of biology with electronics [Walter Truett Anderson, *Evolution Isn't What It Used To Be* (New York, W.H. Freeman and Company, 1996), p. 4.]

The final major product to date is the simulation model, SIM 2020. This model is designed to increase the knowledge and understanding of the characteristics of complex health systems. The model is designed not to be prescriptive – that is, not to provide an ultimate solution, but rather to help organizations develop a greater understanding of the relationships between initial conditions, strategic investments and end states. The developers selected dynamic simulation over other modeling techniques because it is the best approach for capturing the unique features of a complex system. Within the interactive environment of the simulation and group seminars, participants have the opportunity to learn more about the sometimes chaotic and counter-intuitive workings of a complex system. Participants identify where the leverage areas are located in the system and how they react over time to various policy, technology or other resource changes. The model has been used in a number of interactive workshops within the MHS. Through these tailored workshops, organizations have been able to gain insights into the complexity of their health system, the relationships at work, and the insights resulting from a shared mental model of a very complex and dynamic military health system.

Current Status

Throughout the short history of MHS 2020, the fundamental shift and potential implications of peace with the former Soviet Union has been a consistent theme. General Gordon Sullivan, USA Retired, in a February 1996 presentation to the MHS 2020 team, marveled at how the last two major deployments he led were with medical personnel and water purification units. This paradox of peace has resulted in multiple conflicts worldwide. As a result of that peace, we now see our armed forces being deployed in extremely volatile areas at a very rapid op-tempo, performing missions foreign to the military, and operating in an environment that does not involve major political rivalries, economic interests, or vital national security interests. [Arthur E. Dewey and Walter S. Clarke, *The Comprehensive Campaign Plan - A Humanitarian/Political/Military Partnership in Total Asset Planning for Complex Humanitarian, Emergencies*, The Congressional Hunger Center, May 1997.]

During the original 1996 scenario development, the MHS 2020 team recognized the potential for increased emphasis on Operations Other Than War (OOTW). These types of operations are interwoven as a major theme of each of the four scenarios.

The intensity, op-tempo, and complexity of a very interdependent and connected world only increase the need for preventive approaches to reducing the potential for conflict. We have experienced this dynamic complexity in every major OOTW operation in the last ten years. We are aware of the potential benefit health operations can be for a country and people, yet we are also reminded of our need to be sensitive to cultural and ethnic values that may be very different from ours. We are also reminded of the critical need to develop and sustain relationships with non-governmental organizations, international organizations and private relief organizations who are normally there when the military arrives and frequently remain long after we leave. Finally, we are aware of the critical imperative for support of the American people for our interventions either in a proactive and preventive posture or in

response to disaster. We must, as much as practical, understand how far the public is willing to support the potential OOTW interventions both domestically and abroad.

As the MHS 2020 team was completing work in the biotechnology/nano-technology area, these issues were in the minds of the senior MHS leadership. Consequently, the ASD (Health Affairs), in consonance with the Services' Surgeons General, directed the MHS 2020 team to explore the future health implications of Operations Other Than War (OOTW) within the context of the scenarios developed during the first two years of MHS 2020. After three months of intensive conversations, research, deliberations, and analysis, the team has described in considerable detail their assessment of the current status of OOTW missions. They have also provided an assessment of the key driving forces and plausible environments for OOTW in the 2020 time frame, and developed a perspective on the potential new ways America's armed forces and the military health system may be employed in the future to support these types of missions.

In articulating the assessment of the **Current Missions Group**, it was pointed out that there are relatively few types of OOTW from a definition perspective, but the various environments and multiple ways these missions are executed are as varied as the number of nation states. One participant stated that from the beginning of the republic, our armed forces have been deployed over 230 times in either armed conflict or in what can be defined as OOTW from protecting American interests in China in 1885 to the Marshall Plan after World War II. The group's work demonstrates that the United States has been doing OOTW missions throughout its history.

The **Changing Conditions Group** has painted a very provocative picture of OOTW within the context of the MHS 2020 scenarios. The assessment of global key forces and potential future health implications of OOTW suggest that we will face more OOTW challenges and missions in the future. The intensity and rapidity of changes in social, technical, economic, environmental, and political forces suggests a "structural certainty" that the demand for OOTW will be very high and the nature of these missions in the future will be very intense.

The **New Missions Group** suggests over fifteen different ways the MHS role in OOTW could be performed in the future, from global international health surveillance to robotic interventions. The New Missions Group addresses the complexity and very fluid nature of potential new ways these missions will be performed. The group's model for future OOTW operations is framed around global surveillance, evaluation and baseline assessment, response generation, and education for the affected community.

As the second phase (Mar-Jun 98) progresses the group will examine potential new missions within an analytical framework encompassing Doctrine, Training, Leader Development, Organizations, Materiel, and Service Members (DTLOMS). The final report will address potential structures and processes for meeting a range of mission types and conclude with a set of recommendations for consideration by the senior MHS leadership.

The processes developed for MHS 2020 have been unique in a number of ways. The entire project has been structured around interactive and facilitated discussions occurring via the World Wide Web. The process brought together a diverse group of subject matter experts from both the public and private sector to explore the future of military health. The MHS 2020 process will continue the professional development of MHS futurists and leaders and serve to facilitate the development of relationships with external governmental and non-governmental humanitarian organizations. The paradox

of MHS 2020 is that it has little to do with predicting and forecasting the future. MHS 2020, its goals and outcomes, are fundamentally about developing a culture that sees the future as a mind change. It is about helping people learn to see the present differently, developing a strong tolerance for uncertainty, and creating road maps to achieve a shared vision. The hope is that through the implementation and use of tools developed during MHS 2020, and the continued exploration of alternative futures, we will gain additional insights and be more empowered to make the resource and investment decisions today that will lead us to a better tomorrow.

MHS 2020 – Envisioning Tomorrow to Focus Today's Resources...

FORGING PEACE: PROTECTING THOSE WHO SERVE

Walter Gary Sharp, Sr.

Discussion Paper
for

Conference On
Civil-Military Relations in Complex Humanitarian Crises
"Forging Peace"

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Let us have faith that right makes might; and in that faith let us to the end dare to do our duty as we understand it.

Abraham Lincoln¹
Our policy is directed not against any country or doctrine, but against hunger, poverty, desperation and chaos. Its purpose should be the revival of a working economy in the world so as to permit the emergence of political and social conditions in which free institutions can exist.

George C. Marshall²

ABSTRACT: The international community should use the rule of law more forcefully to maintain international peace and security and respond to complex humanitarian crises. While it expects military forces to take on new coercive peace-keeping and combatant missions, it fails to provide clear or adequate legal protections or guidance for military forces serving the United Nations, and it fails to adequately bring war criminals to justice. The rule of law must be clarified and advanced, and once defined, it *must* be enforced. The international community should adopt a new convention which provides that military forces who serve under the authority of the United Nations are international policemen and unlawful targets under *all* circumstances, regardless of whether they serve as consensual peace-keepers or belligerent peace-enforcers.

I. INTRODUCTION

President Clinton's announcement on December 18, 1997 that 8,000 United States troops will remain in Bosnia indefinitely³ highlights the indispensable role that military forces and humanitarian relief organizations play in the international community's efforts to maintain international peace and security when challenged by complex humanitarian crises. From Somalia and Haiti to Yugoslavia and Rwanda, unending public debates analyze their successes and failures, their strengths and weaknesses, and the lives that their missions have saved and lost. In contrast to this agonizing controversy over whether or how the international community should respond to complex humanitarian crises as a matter of policy, there has been very little public debate over whether or how the international community must respond as a matter of law – and no public debate or recognition that international law makes a distinction between those forces that serve only under the authority of their respective sovereign state and those military forces that serve the international community.

Complex humanitarian crises are emergencies where all or part of the population of a state is dependent on external international assistance for food, water, medicine, or security because of totalitarian repression, government failure, civil war, or international armed conflict. These emergencies are considered

¹ Abraham Lincoln, Cooper Union Speech (Feb. 27, 1860), reprinted in JOHN NORTON MOORE, CRISIS IN THE GULF: ENFORCING THE RULE OF LAW at xliii (1992).

² George C. Marshall, Speech at Harvard University (June 5, 1947) (excerpted in THE COLUMBIA DICTIONARY OF QUOTATIONS (1995), available in MICROSOFT BOOKSHELF 98 REFERENCE LIBRARY (1998)).

³ William Drozdiak, *Passivity Tempers U.S. Progress in Bosnia: Critics Say Fear of Casualties Prevents More Effective Intervention*, WASH. POST, Dec. 21, 1997, at A1.

complex because an effective international response requires the coordination of political, military, and relief initiatives in a hostile environment frequently without the consent of the parties to a conflict or even the host nation. An effective response also requires a confluence of interests among global, regional, and nongovernment actors, as well as an agreement among them defining the objectives of the humanitarian intervention. On the ground, diverse political, military, and relief organizations must work to overcome cultural barriers between themselves and those they intend to help, and must coordinate their activities to support the overall civil-military response. To be successful, humanitarian interventions must also address the underlying causes of the crisis, such as ethnic hatreds or the existence of a cruel totalitarian regime. All complex humanitarian crises have tragic human suffering in common, and the unwillingness or inability of a state to care for a harrowed population.

The rule of law demands that states must take into account their legal obligations in the formulation of their policy, that persons who violate international humanitarian law must be held accountable, and that those persons who serve the international community must be afforded the greatest legal protections available. These military ambassadors of the international community must also be provided with a clear set of standards within which they must operate. In this new Charter era of military peace-keeping operations, however, war criminals remain at large, and there are no clear rules that either protect or guide military personnel when they respond to complex humanitarian crises.

This paper will begin with a brief review of the international law that governs the conduct of armed conflict, the protective legal regime for those civilian and military personnel who are acting on behalf of the international community, and the obligations of the international community to act in the face of complex humanitarian crises and war criminals at large. This overview will be followed by a discussion of the gaps in how international law applies to military forces serving the international community, *i.e.*, what are their legal protections and obligations during military support to complex humanitarian crises? The paper will conclude with specific recommendations as to how the rule of law should be used to strengthen an international response to complex humanitarian crises.

II. THE LAWS OF ARMED CONFLICT⁴

War has existed during the entire history of human society⁵ and virtually every recorded civilization has developed some rules governing the initiation⁶ and conduct of war.⁷ The self-imposed rules of these

⁴ This part of the paper is extracted from a more detailed discussion of the law of conflict management, the laws of armed conflict, and the doctrine of equal application found in: Walter Gary Sharp, Sr., *Revoking an Aggressor's License to Kill Military Forces Serving the United Nations: Making Deterrence Personal*, 22 MD. J. INT'L L. & TRADE ____ (1998).

⁵ RICHARD A. PRESTON & SYDNEY F. WISE, *MEN IN ARMS: A HISTORY OF WARFARE AND ITS INTERRELATIONSHIPS WITH WESTERN SOCIETY* 1 (4th ed. 1979).

⁶ 1 THE LAW OF WAR: A DOCUMENTARY HISTORY 3 (Leon Friedman ed., 1972). Articles 2(4), 39, and 51 of the Charter of the United Nations now codify the contemporary laws of conflict management in their entirety. See THE CHARTER OF THE UNITED NATIONS: A COMMENTARY 111 (Bruno Simma ed., 1994).

⁷ DOCUMENTS ON THE LAWS OF WAR 1-2 (Adam Roberts & Richard Guelff eds., 2d ed. 1989); 1 THE LAW OF WAR: A DOCUMENTARY HISTORY, *supra* note 6, at 3.

societies over thousands of years that attempted to mitigate the savagery of warfare developed customary international law now commonly referred to as the laws of armed conflict.⁸

The most fundamental customary principle of the existing laws of armed conflict is that the right of belligerents to adopt means of injuring the enemy is not unlimited.⁹ From this principle, customary international law has derived two corollary principles: proportionality which seeks to establish criteria for limiting the use of force, and discrimination which governs the selection of methods, weaponry, and targets.¹⁰ These two principles of proportionality and discrimination have been refined in military usage to three interrelated customary principles of international law: military necessity, humanity, and chivalry.¹¹ Since the customary laws of armed conflict developed as self-imposed, advantageous restraints designed to mitigate the savagery of war,¹² they were never intended to impede the waging of hostilities.¹³ To the contrary, the laws of armed conflict complement and support "the principles of warfare embodied in the military concepts of objective, mass, economy of force, surprise, and security."¹⁴

While these customary laws continue to exist independently, the practice of codifying the laws of armed conflict in binding international agreements did not begin until the mid-nineteenth century.¹⁵ Codification accelerated at the turn of the twentieth century,¹⁶ and the laws of armed conflict have generally developed in two regimes: the Hague regulations that govern the means and methods of warfare,

⁸ DOCUMENTS ON THE LAWS OF WAR, *supra* note 7, at 1-2; 1 THE LAW OF WAR: A DOCUMENTARY HISTORY, *supra* note 6, at 3.

⁹ DOCUMENTS ON THE LAWS OF WAR, *supra* note 7, at 4. This principle is codified in Article 22 of the Hague Convention IV Respecting the Laws and Customs of War on Land, Oct. 18, 1907, Annex (Regulations), 36 Stat. 2295, 1 Bevans 643 [hereinafter 1907 Hague Regulations], *reprinted in* DOCUMENTS ON THE LAWS OF WAR, *supra* note 7, at 48.

¹⁰ DOCUMENTS ON THE LAWS OF WAR, *supra* note 7, at 5.

¹¹ *Id.* This text refers to the following definitions of these three terms which are found in U.S. DEP'T OF THE NAVY, NWP 1-14M, THE COMMANDER'S HANDBOOK ON THE LAW OF NAVAL OPERATIONS ¶ 5.2 (1995) [hereinafter COMMANDER'S HANDBOOK]:

Military necessity: "Only that degree and kind of force, not otherwise prohibited by the law of armed conflict, required for the partial or complete submission of the enemy with a minimum expenditure of time, life, and physical resources may be applied."

Humanity: "The employment of any kind or degree of force *not* required for the purpose of the partial or complete submission of the enemy with a minimum expenditure of time, life, and physical resources, is prohibited."

Chivalry: "Dishonorable (treacherous) means, dishonorable expedients, and dishonorable conduct during armed conflict are forbidden."

¹² MORRIS GREENSPAN, *THE MODERN LAW OF LAND WARFARE* 4 (1959).

¹³ COMMANDER'S HANDBOOK, *supra* note 11, ¶ 5.2.

¹⁴ *Id.*

¹⁵ DOCUMENTS ON THE LAWS OF WAR, *supra* note 7, at 2-4.

¹⁶ *Id.* at 3.

and the Geneva conventions that govern the protection of victims of war.¹⁷ Most notable of the regime of Geneva conventions are the four Geneva Conventions of 1949 developed at the initiative of the International Committee of the Red Cross (ICRC).¹⁸

These four Geneva conventions apply during international armed conflict, and deal with the following four categories of victims of war, respectively: wounded and sick in armed forces in the field; wounded, sick and shipwrecked in armed forces at sea; prisoners of war; and civilians.¹⁹ Common Article 3, however, does set forth minimum humanitarian principles that apply during internal armed conflicts.²⁰ The four Geneva Conventions of 1949 are adhered to by more states than any other agreements on the laws of armed conflict and are declaratory of customary international law.²¹ Despite the growing involvement of military forces serving under United Nations authority, there is no body of international law that has been tailored to their protections and responsibilities.²²

¹⁷ See generally DOCUMENTS ON THE LAWS OF WAR, *supra* note 7.

¹⁸ DOCUMENTS ON THE LAWS OF WAR, *supra* note 7, at 169. Collectively, these four conventions are referred to as the four Geneva Conventions of 1949. Individual citations are as follows: Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Aug. 12, 1949, 6 U.S.T. 3114, 75 U.N.T.S. 31 [hereinafter 1949 Geneva Convention No. I], *reprinted in* DOCUMENTS ON THE LAWS OF WAR, *supra* note 7, at 171; Geneva Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea, Aug. 12, 1949, 6 U.S.T. 3217, 75 U.N.T.S. 85 [hereinafter 1949 Geneva Convention No. II], *reprinted in* DOCUMENTS ON THE LAWS OF WAR, *supra* note 7, at 194; Geneva Convention Relative to the Treatment of Prisoners of War, Aug. 12, 1949, 6 U.S.T. 3316, 75 U.N.T.S. 135 [hereinafter 1949 Geneva Convention No. III], *reprinted in* DOCUMENTS ON THE LAWS OF WAR, *supra* note 7, at 216; Geneva Convention Relative to the Protection of Civilian Persons in Time of War, Aug. 12, 1949, 6 U.S.T. 3516, 75 U.N.T.S. 287 [hereinafter 1949 Geneva Convention No. IV], *reprinted in* DOCUMENTS ON THE LAWS OF WAR, *supra* note 7, at 272.

¹⁹ DOCUMENTS ON THE LAWS OF WAR, *supra* note 7, at 169. The four Geneva Conventions of 1949 are linked by certain general principles and by common articles that are found throughout each of the four conventions. *Id.*

²⁰ 1949 Geneva Convention No. IV, *supra* note 18, art. 3, *reprinted in* DOCUMENTS ON THE LAWS OF WAR, *supra* note 7, at 273.

²¹ DOCUMENTS ON THE LAWS OF WAR, *supra* note 7, at 169-170. Individual criminal responsibility for violations of the laws of armed conflict is an undisputed part of contemporary international law. See *Principles of International Law Recognized in the Charter of the Nuremberg Tribunal and in the Judgment of the Tribunal*, princ. 1, [1950] 2 Y.B. Int'l L. Comm'n 374 [hereinafter 1950 *Nuremberg Principles*], *reprinted in* THE LAWS OF ARMED CONFLICTS 923, 923 (Dietrich Schindler & Jiri Toman eds. 3d ed. 1988); DOCUMENTS ON THE LAWS OF WAR, *supra* note 7, at 12.

²² The two 1977 protocols to the four Geneva Conventions of 1949 fail to advance or clarify the protections or responsibilities of peace-keepers. See Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts, arts. 85-91, Dec. 12, 1977, 1125 U.N.T.S. 3 [hereinafter Protocol I], *reprinted in* DOCUMENTS ON THE LAWS OF WAR, *supra* note 7, at 389; Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts, art. 6, Dec. 12, 1977, 1125 U.N.T.S. 609 [hereinafter Protocol II], *reprinted in* DOCUMENTS ON THE LAWS OF WAR, *supra* note 7, at 449.

III. EXISTING LEGAL PROTECTIONS FOR INTERNATIONAL PERSONNEL²³

The legal protections accorded humanitarian relief and military personnel who serve the international community during complex humanitarian crises depends on the underlying authority upon which they are present in the receiving state and whether the military force is a non-belligerent or a belligerent. This general observation allows us to analyze existing international protections accorded military forces operating outside their flag state in three categories:

- non-belligerent consensual forces,
- non-belligerent forces acting under the coercive authority of the Security Council, and
- belligerent forces.

The sovereignty of the receiving state, which includes a jurisdiction over its territory that is *prima facie* exclusive, is the most fundamental doctrine of state relations under international law,²⁴ and is the cardinal consideration in determining the status of military forces operating outside their flag state. While the first category above acknowledges the territorial and political sovereignty of the receiving state, the last two categories recognize exceptions to the general rule of exclusive sovereignty.

Non-belligerent consensual forces that deploy in the territory of a sovereign state are fully exposed to the domestic law and regulation of the receiving state, subject only to protections provided by a stationing agreement, and those privileges, immunities, and protections afforded by international law. This exposure, if not altered by agreement or international law, includes subjecting members of the force to full criminal and civil jurisdiction of the receiving state, as well as exposing the force itself to receiving state regulation such as import fees, customs, and taxes. Consequently, it is highly preferred during a consensual deployment to have an agreement with the receiving state to determine the status of the members of the force, to ensure that members of the force are protected by receiving state law, and to exempt the force itself from unnecessary regulation and expense—notwithstanding that some of these privileges and immunities are already granted by international law. Unless additional authorization is granted by the receiving state, military personnel deploying outside their own state may only use armed force for self-defense. Non-belligerent consensual forces are not lawful targets, even though they may be deployed into areas of ongoing hostilities.

Non-belligerent forces acting under the coercive authority of the Security Council that conduct a coercive peace-keeping operation in the territory of a sovereign state have absolute immunity, to the extent necessary for the independent exercise of its mandate, as a matter of international law, from any receiving state authority against which the Security Council has taken coercive action. It is nevertheless desirable, to the extent possible, to provide for the status of the forces by agreement with the receiving state to maintain its cooperation. This arrangement allows a receiving state to become an active participant in the peace process sought by a coercive peace-keeping operation that is not prepared to completely enforce its mandate on the parties to the conflict.

In practice, cooperation remains essential in the typical coercive peace-keeping scenario because the Security Council's Chapter VII coercive authority is being used only to overcome the lack of complete agreement and consent by all of the parties. Some form of an arrangement is vitally important if a coercive

²³ This part of the paper is extracted from a more detailed discussion of the protections accorded military personnel operating outside their flag state found in: Walter Gary Sharp, Sr., *Protecting the Avengers of International Peace and Security*, 7 DUKE J. COMP. & INT'L L. 93, 112-43 (1996).

²⁴ See IAN BROWNLEE, PRINCIPLES OF PUBLIC INTERNATIONAL LAW 287 (3d ed. 1979).

peace-keeping force is not manned and equipped adequately enough to protect itself without some level of cooperation from the receiving state. Military personnel participating in coercive peace-keeping operations may use armed force for self-defense and in accordance with their mandate to accomplish their mission. Under existing international law, they are not lawful targets as long as they remain non-belligerents, even though they may be deployed into areas of ongoing hostilities.

The difficulty is for these military forces to remain non-belligerents when they have to use force in self-defense or to accomplish their mission. The status of international law as to when these forces cross the line and become belligerents is unclear, and a new rule must be put into place that will make military personnel who serve under the authority of the United Nations unlawful targets under *all* circumstances regardless of the level of armed force they must use in self-defense or to accomplish their mission.

Table 1 summarizes existing customary international law protections accorded a United Nations military force that is acting under the *direction* of the Security Council, *i.e.*, a force established under the authority of the United Nations *and* conducted under United Nations authority and control.

CUSTOMARY INTERNATIONAL LAW PROTECTIONS ACCORDED
MILITARY FORCES ACTING UNDER THE DIRECTION OF THE UNITED NATIONS
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(Table 1)

FORCE ELEMENT	PROTECTION ACCORDED	SOURCE OF PROTECTION
PROPERTY, FUNDS & ASSETS	Absolute immunity	Customary international law, as codified by the Convention (P&I)
MILITARY OBSERVERS	Experts on mission status equivalent to that in the Convention (P&I)	Customary international law, as codified by the United Nations model SOFA
COMMANDER OF THE FORCE	Diplomatic envoy status equivalent to that of the Secretary-General in the Convention (P&I)	
MEMBERS OF THE FORCE	-- immunity from criminal & civil jurisdiction for all acts performed in their official capacity -- exemption from all income taxes except on income received from sources inside the receiving state -- exemption from all other direct taxes, registration fees or charges -- exemption from those laws & regulations governing customs & foreign exchange for personal property required by reason of their presence in the receiving state	

It is important to reemphasize that these privileges and immunities from receiving state sovereignty only devolve to United Nations forces that are a subsidiary organ of the United Nations because they are acting under the *direction* of the Security Council (*e.g.*, UNOSOM and UNOSOM II). They do not apply to those

unilateral or multilateral forces that are simply acting under the authority of the United Nations (*e.g.*, UNITAF).

Absolute immunity for *all* United Nations forces conducting peace operations, both directed and authorized, can be derived, however, from the coercive authority of the Security Council and its implied powers. By means of Article 25 of the Charter of the United Nations [hereinafter Charter], Member States have agreed "to accept and carry out the decisions of the Security Council." The drafters of the Charter viewed this coercive decision-making authority of the Security Council as indispensable for the effective functioning of the United Nations in the field of maintaining international peace and security, and considered this authority the core element of the concept of the United Nations.²⁵ Given the central importance of the coercive authority of the Security Council in the field of maintaining international peace and security, Article 105 of the Charter *must* be read to grant the Security Council, its subsidiary organs, and their constituent personnel, those privileges and immunities as are necessary to fulfill the purposes of the Security Council when acting under Chapter VII to maintain international peace and security, and as are necessary for the personnel of a United Nations force to independently exercise of their functions. To infer otherwise would vitiate the Security Council's coercive authority and make it unable to act with the consent of the receiving state.

Belligerent forces, whether they operate unilaterally, multilaterally, or under Chapter VII of the Charter, are governed by the laws of armed conflict. Under these laws, belligerent forces are authorized to use force in self-defense and as required for the complete or partial submission of the enemy.²⁶ Even though they are protected by the laws of armed conflict, belligerent forces may be lawfully targeted by enemy forces.

The protections for non-belligerent forces are not mutually exclusive. In any given situation, a combination of arrangements may provide varying levels of force protection. For example, a consensual peace-keeping force may have minimum protections accorded them under the Convention on the Privileges and Immunities of the United Nations and have additional protections accorded under a status of forces agreement. Similarly, a coercive peace-keeping force may have protections under a status of forces agreement even though it has absolute immunity. It is also important to note that the entire range of legal protections may not be available or effective. As in Somalia, host nation law may not even exist, or, as in Haiti, the host nation may not be willing or able to enforce its own laws. Table 2 summarizes the existing international legal protections accorded military forces operating outside their flag state.

²⁵ THE CHARTER OF THE UNITED NATIONS: A COMMENTARY, *supra* note 6, at 408-409.

²⁶ See COMMANDER'S HANDBOOK, *supra* note 11, ¶ 5.2, which states that the principle of military necessity allows "[o]nly that degree and kind of force, not otherwise prohibited by the law of armed conflict, required for the partial or complete submission of the enemy with a minimum expenditure of time, life, and physical resources"

TYPE OF PEACE OPERATION		STATUS	PROTECTIONS ACCORDED
C O N S E N S U A L	PREVENTIVE DEPLOYMENT, PEACEMAKING, AND	Non-belligerent, Non-U.N. force	Host country law, if available.
			SOFA or stationing arrangement, as agreed upon.
	CONSENSUAL PEACE-KEEPING	non-belligerent, U.N. chap. IV or VI force	The 1949 Geneva Convention No. IV & the 1977 Geneva Protocol I, if operating in areas of international armed conflict.
			Common art. 3 of the four Geneva Conventions of 1949 & the 1977 Geneva Protocol II, if operating in areas of internal armed conflict.
			Art. 105 of the U.N. CHARTER, for U.N. directed forces.
C O E R C I V E	COERCIVE PEACE-KEEPING	non-belligerent, U.N. chap. VII force	Convention (P&I), for U.N. directed forces, as applicable.
			U.N. Security Council resolutions, as adopted.
	NEOPEACE- ENFORCEMENT	belligerent, U.N. chap. VII or non-U.N. force	Customary international law, for U.N. directed forces, as codified by the U.N. model SOFA & the Convention (P&I).
			To the extent necessary for the independent exercise of its mandate, absolute immunity exists & can be asserted over those states against which the UNSC has taken coercive action; accordingly, host country law, SOFAs, & other stationing arrangements are only utilized to the extent desired by the U.N. to maximize the cooperation of the parties, to minimize the scale of the operation, & to minimize the threat to the force.
			The 1949 Geneva Convention No. IV & the 1977 Geneva Protocol I, if operating in areas of international armed conflict.
TRADITIONAL PEACE- ENFORCEMENT		Common art. 3 of the four Geneva Conventions of 1949 & the 1977 Geneva Protocol II, if operating in areas of internal armed conflict.	
		U.N. Security Council resolutions, as adopted.	
			Laws of armed conflict: principally the Hague & Geneva Conventions, & customary international law.

IV. INTERNATIONAL OBLIGATIONS TO ACT

Article 39 of the Charter of the United Nations imposes an *obligation* on the Security Council to either make recommendations or decide what measures shall be taken to maintain or restore international peace and security.

Article 39

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.²⁷

Recommendations of the Security Council must be given "every assistance" by Member States,²⁸ and decisions taken by the Security Council under Article 39 are binding on all Member States.²⁹ Article 41 authorizes the Security Council to "decide what measures not involving the use of armed force are to be employed to give effect to its decisions."³⁰ and Article 42 authorizes the Security Council to "take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security."³¹ This latter Article includes the authority for the Security Council to conduct or authorize belligerent operations against an aggressor state, and to deploy or authorize the deployment of an armed force in the territory of an aggressor state without that state's consent, when such actions are necessary to maintain or restore international peace and security.³²

To the extent that complex humanitarian crises threaten international peace and security, the Security Council has an *obligation* to either make recommendations or decide what measures shall be taken to maintain or restore international peace and security. Each member of the Security Council has a corresponding duty to act on this Article 39 obligation within the framework of the role of the Security Council, and each Member State of the United Nations has an obligation to give every assistance to Security Council recommendations and abide by Security Council decisions. Although what constitutes a threat to international peace and security is very situational, past Security Council resolutions that have invoked Chapter VII authority provide a number of examples upon which to argue that the Security Council has an obligation to act in similar circumstances.

Although the laws of armed conflict evolved as obligations on states, each state remains responsible for the application of the laws of armed conflict when its forces serve as belligerents under the authority of the United Nations.³³ These rules ensure that belligerent military forces adhere to universally

²⁷ U.N. CHARTER art. 39. This paragraph is extracted from a more detailed discussion of the law of conflict management found in: Walter Gary Sharp, Sr., *Revoking an Aggressor's License to Kill Military Forces Serving the United Nations: Making Deterrence Personal*, 22 MD. J. INT'L L. & TRADE 1, 1-18 (1998).

²⁸ U.N. CHARTER arts. 2, para. 5.

²⁹ U.N. CHARTER art. 25; THE CHARTER OF THE UNITED NATIONS: A COMMENTARY, *supra* note 6, at 407-18.

³⁰ U.N. CHARTER art. 41.

³¹ U.N. CHARTER art. 42.

³² See THE CHARTER OF THE UNITED NATIONS: A COMMENTARY, *supra* note 6, at 632-35.

³³ THE CHARTER OF THE UNITED NATIONS: A COMMENTARY, *supra* note 6, at 600.

accepted principles of international humanitarian law during complex humanitarian crises. Albeit they remain lawful targets as belligerents, these rules also afford military forces certain levels of protection during hostilities. There are no universally accepted rules of behavior or responsibility for military forces that serve under the authority of the United Nations.

All states have obligations under international law to search for and arrest those suspected of war crimes. Table 3 summarizes these obligations during the contemporary Charter era. In the case of the former Yugoslavia, the Security Council has taken specific action under its Chapter VII authority that has resulted in additional obligations upon states to search for and arrest persons suspected of war crimes within the jurisdiction of the International Criminal Tribunal for the former Yugoslavia. These obligations are summarized in Table 4, and are in addition to those summarized in Table 3.³⁴ States have avoided war crimes trials since World War II, however, despite the serious crimes that were committed during a number of international armed conflicts such as Korea, Vietnam, Palestine, Pakistan-Bangladesh-India, Cyprus, Lebanon, and the Persian Gulf.³⁵ States have also been universally and harshly criticized for their failure to search for and arrest war criminals within the jurisdiction of the International Criminal Tribunal for the former Yugoslavia.³⁶

³⁴ See Walter Gary Sharp, Sr., *International Obligations to Search for and Arrest War Criminals: Government Failure in the Former Yugoslavia?*, 7 DUKE J. COMP. & INT'L L. 411, 419-49 (1997) for a more detailed discussion of the general obligations of states to search for and arrest persons suspected of war crimes under international law as well as a discussion of the obligations of states to search for and arrest persons suspected of war crimes within the jurisdiction of the International Criminal Tribunal for the former Yugoslavia.

³⁵ M. CHERIF BASSIOUNI, *CRIMES AGAINST HUMANITY IN INTERNATIONAL CRIMINAL LAW* 232 (1992).

³⁶ See generally, Walter Gary Sharp, Sr., *International Obligations to Search for and Arrest War Criminals: Government Failure in the Former Yugoslavia?*, 7 DUKE J. COMP. & INT'L L. 411 (1997).

INTERNATIONAL OBLIGATIONS TO SEARCH FOR AND ARREST WAR CRIMINALS DURING THE CONTEMPORARY CHARTER ERA © 1997 Walter Gary Sharp, Sr.

(Table 3)

SOURCE OF OBLIGATION	NATURE OF OBLIGATION TO SEARCH FOR AND ARREST
four Geneva Conventions of 1949	<ul style="list-style-type: none"> • customary international law, as codified by common art. 49/50/129/146, requires all states to "search for persons alleged to have committed, or to have ordered to be committed" grave breaches and to bring them before its own courts. • State obligation is an affirmative one to act spontaneously and "with all speed." • State obligation extends to all territories where states, either individually or collectively, are authorized by international law to exercise jurisdiction.
Laws of customs of war	<ul style="list-style-type: none"> • it is unlikely that an obligation exists to search for and arrest persons suspected of violations of the laws and customs of war other than grave breaches.
Genocide Convention	<ul style="list-style-type: none"> • customary international law, as codified by the Genocide Convention, requires all states to effectively prevent and punish persons alleged to have committed genocide. • <i>derived</i> from this obligation to effectively prevent and punish is the obligation to search for and arrest suspected criminals within all territories where states, either individually or collectively, are authorized by international law to exercise jurisdiction.
crimes against humanity	<ul style="list-style-type: none"> • customary international law requires all states to prosecute persons alleged to have committed crimes against humanity. • <i>derived</i> from this obligation to prosecute is the obligation to search for and arrest suspected criminals within all territories where states, either individually or collectively, are authorized by international law to exercise jurisdiction.
U.N. General Assembly	<ul style="list-style-type: none"> • all states have been called upon by the General Assembly in <i>non-binding</i> resolutions to take the measures necessary to detect and arrest war criminals, and to intensify their cooperation with one another in their efforts to detect and arrest war criminals.
U.N. Security Council	<ul style="list-style-type: none"> • all states have the <i>binding</i> obligation to carry out a decision of the Security Council, when it acts under its Chapter VII coercive authority, which directs the search for and arrest of persons suspected of war crimes.

INTERNATIONAL OBLIGATIONS AND AUTHORITIES TO SEARCH FOR AND ARREST
WAR CRIMINALS WITHIN THE FORMER YUGOSLAVIA
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(Table 4)

SOURCE OF OBLIGATION	NATURE OF OBLIGATION AND AUTHORITY
U.N.S.C. Res. 827	<ul style="list-style-type: none"> imposes an <i>obligation</i> for all states to cooperate fully with the International Tribunal and to comply with requests for assistance or orders issued by a Trial Chamber under Article 29 of the Statute.
Art. 29 of the Statute	<ul style="list-style-type: none"> imposes an <i>obligation</i> on states to comply without undue delay with any request for assistance or an order issued by a Trial Chamber, including, but not limited to the arrest or detention of persons and their surrender or the transfer to the International Tribunal. The Rules of Procedure and Evidence authorize the International Tribunal to issue <i>arrest warrants</i> and <i>international arrest warrants</i>: <ul style="list-style-type: none"> Rule 55 authorizes a single judge of the International Tribunal, upon indictment, to issue an <i>arrest warrant</i> that is addressed to the national authorities of a state in whose territory or under whose jurisdiction or control the accused resides, was last known to be, or is believed to be present Rule 61 permits the Trial Chamber to issue an <i>international arrest warrant</i> that is addressed to <i>all</i> states.
Rule 56 of the Rules of Procedure and Evidence of the International Tribunal	<ul style="list-style-type: none"> imposes an <i>obligation</i> on states to act promptly and with all due diligence to ensure the proper and effective execution of an arrest warrant issued to them in accordance with Article 29 of the Statute.
Art. IX, and art. X of annex I-A, of the Dayton Peace Agreement	<ul style="list-style-type: none"> imposes an <i>obligation</i> on parties to the Dayton Peace Agreement to cooperate in the investigation and prosecution of war crimes and other violations of international humanitarian law, and specifically to cooperate fully with the International Tribunal.
Art. VI.5 of annex I-A of the Dayton Peace Agreement	<ul style="list-style-type: none"> grants the <i>authority</i> to the Implementation Force to do all that is necessary and proper to carry out its responsibilities. This authority includes the right to use military force to search for and arrest persons indicted by the International Tribunal should the parties to the Dayton Peace Agreement not fully cooperate with the International Tribunal and fail to execute arrest warrants issued to them.
U.N.S.C. Res. 1031	<ul style="list-style-type: none"> imposes an <i>obligation</i> on all states to cooperate fully with the International Tribunal and its organs in accordance with the provisions of Resolution 827 and the Statute, and to comply with all requests for assistance or orders issued by a Trial Chamber under Article 29 of the Statute. grants the <i>authority</i> to all states contributing troops to the Implementation Force to take all necessary measures to effect the implementation of and to ensure compliance with Annex I-A of the Dayton Peace Agreement. This authority includes the right of states contributing troops to the Implementation Force to use military force to search for and arrest persons indicted by the International Tribunal should the parties not fully cooperate with the International Tribunal and fail to execute arrest warrants.

V. FROM STATE PRACTICE TO INTERNATIONAL LAW: PROTECTING THOSE WHO SERVE

Although belligerents of international and internal armed conflicts remain lawful targets, the laws of armed conflict serve to protect them from the savagery of war by imposing restraints on the means and methods of warfare.³⁷ In contrast, the laws of armed conflict protect noncombatants by declaring them *unlawful* targets under all circumstances. When humanitarian relief and noncombatant military personnel serve the international community in areas of ongoing internal or international armed conflict, they are unlawful targets under all circumstances. Those combatants who unlawfully attack humanitarian relief and noncombatant military personnel may and should be prosecuted under the laws of armed conflict for war crimes.

During complex humanitarian crises, however, if these same military personnel use armed force in self-defense or they use authorized force to accomplish their mission, a rote application of the existing laws of armed conflict may make them belligerents and thus, lawful targets. If so, their killers may not be prosecuted under international law so long as the military personnel serving the international community were killed in accordance with the laws of armed conflict. This unacceptable lacuna in international law exists because the application of the laws of armed conflict developed in a state-centric world before the international community began to take collective action under the Charter against threats to international peace and security.

In a state-centric world, Common Article 2 governs the application of the four Geneva Conventions of 1949 and is widely accepted as the threshold test for when an international armed conflict exists, and consequently, the application of the laws of armed conflict in their entirety.³⁸ This article invokes the provisions of the Conventions upon one of three factual conditions: the declaration of war, the occurrence of *de facto* hostilities even if the state of war is not recognized by one of them, and in all cases of partial or total occupation even if met with no armed resistance.³⁹ In state practice, the use of force threshold that invokes *de facto* hostilities has intentionally been very low to ensure the broadest possible application of the laws of armed conflict.⁴⁰

Short of an actual declaration of war or a case of occupation, the United States' position is that military forces do not become a party to an international armed conflict until such time they become engaged in a use of force of a *scope, duration, and intensity* that would trigger the laws of armed conflict with respect to those forces. This threshold is a factual, subjective determination that centers on the use of force between the members of the armed forces of two states. These factors are to be considered conjunctively, and in the context

³⁷ DOCUMENTS ON THE LAWS OF WAR, *supra* note 7, at 4. This principle is codified in Article 22 of the 1907 Hague Regulations, *supra* note 9, *reprinted in* DOCUMENTS ON THE LAWS OF WAR, *supra* note 7, at 48.

³⁸ See DOCUMENTS ON THE LAWS OF WAR, *supra* note 7, at 169-70; COMMENTARY ON THE GENEVA CONVENTION RELATIVE TO THE PROTECTION OF CIVILIAN PERSONS IN TIME OF WAR 17-21 (Jean S. Pictet ed., 1958) [hereinafter 1949 Geneva Convention No. IV COMMENTARY].

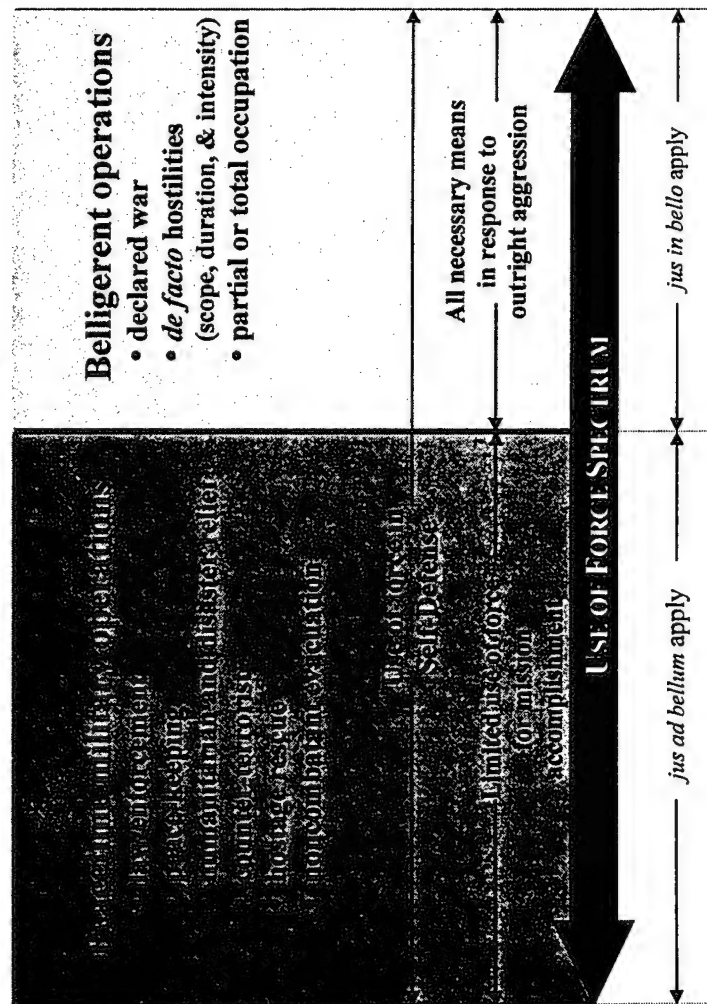
³⁹ See 1949 Geneva Convention No. IV, *supra* note 18, art. 2, *reprinted in* DOCUMENTS ON THE LAWS OF WAR, *supra* note 7, at 272; 1949 Geneva Convention No. IV COMMENTARY, *supra* note 38, at 20.

⁴⁰ See Walter Gary Sharp, Sr., *Revoking an Aggressor's License to Kill Military Forces Serving the United Nations: Making Deterrence Personal*, 22 MD. J. INT'L L. & TRADE 1-11 (1998) for a more detailed discussion of the application of the laws of armed conflict to military forces serving the United Nations.

of the assigned mission of the forces. For example, military forces conducting a noncombatant evacuation operation do not become a party to an armed conflict when they use limited force to rescue personnel. Similarly, military forces serving under the authority of the United Nations do not become a party to an armed conflict when they use limited force to accomplish an assigned humanitarian relief or peace operation. In contrast, individual or collective military action in response to outright aggression, such as the coalition response to the Iraqi aggression that led to the Persian Gulf war, does cross the Common Article 2 threshold and trigger the application of the laws of armed conflict. Figure 1 graphically summarizes these principles of existing international law.

THE COMMON ARTICLE 2 THRESHOLD
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(Figure 1)

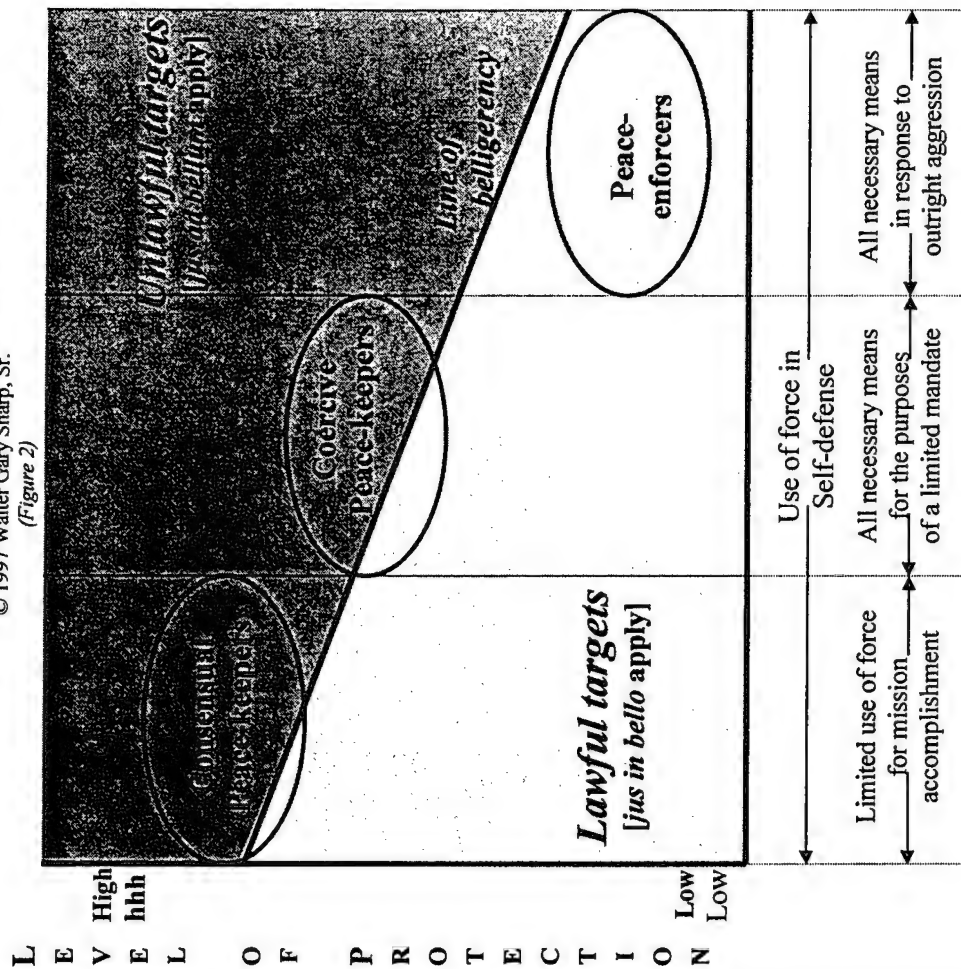
Line of belligerency



The application of this factual, subjective determination for *de facto* hostilities for peace-keeping forces is what causes this direct conflict between the international community's desire to maximize the application of the laws of armed conflict and to maximize the protection for the military forces that serve the international community. Under existing law, every time military personnel use force in self-defense or to accomplish their assigned mission, they run the risk of triggering the Common Article 2 threshold, thereby

establishing an international armed conflict, and *establishing themselves as belligerents and lawful targets*. This is clearly contrary to the international community's desire to maximize protection for its peace-keepers and make them unlawful targets. Figure 2 graphically illustrates the continuum of existing legal protections accorded these three categories of military forces serving the United Nations when diagrammed along the line of belligerency. This figure demonstrates that the line of belligerency becomes a slippery slope when applied to military forces serving the United Nations, allowing even *consensual* peace-keepers to become lawful targets while in the performance of their assigned duties.

CONTINUUM OF EXISTING LEGAL PROTECTION
ACCORDED MILITARY FORCES SERVING THE UNITED NATIONS
© 1997 Walter Gary Sharp, Sr.
(Figure 2)



This *de facto* Common Article 2 analysis creates the untenable situation that peace-keepers who begin their operation as non-belligerents and unlawful targets may become belligerents and lawful targets when they exercise their authority to use force either in self-defense or to accomplish their assigned mission. The tragic irony of this rote application of existing international law is highlighted by considering some international lawyers have concluded that peace-keepers become belligerents (and therefore lawful targets) in situations such as in Somalia when peace-keepers used authorized force to arrest a war criminal accused of previously killing other peace-keepers.⁴¹ Such an unacceptable conclusion would allow an attacking force to determine the legality of their attack on peace-keepers by ensuring that the scope, duration, and intensity of their attack exceeds the Common Article 2 threshold.

To prevent such unintended consequences, the international community has rejected – as a matter of policy – such a rote application of international law and has recognized a higher *de facto* threshold for military forces serving the United Nations.⁴² While state practice may slowly evolve into customary international law, there has been no successful legal initiative that will make military forces serving the international community unlawful targets under all circumstances – or that will even clarify when they either are, or are not, a lawful target.

Paradoxically, there also needs to be transparency and accountability for the military forces serving the United Nations. The laws of armed conflict must still apply to them, but there must be a new protected status that will clearly establish all military forces serving the United Nations, whether they are non-belligerents or belligerents, as protected persons and unlawful targets at all times. There must also be a corresponding code of responsibility to ensure that this exception is fairly applied to individual combatants who may be ordered to attack military forces serving the United Nations, and that noncombatants do not lose any protections under existing international law.

VI. CONCLUSIONS AND RECOMMENDATIONS

There exists a legal and moral imperative to uphold the rule of law. The rule of law “is one of the great foundations of human social thought” and “is vital to supporting peace and human rights.”⁴³ States must take into account their legal obligations in the formulation of their policy by making their respective legal advisers an integral part of the decision-making process. Correspondingly, legal advisers must be mission enabling advocates and must make a concerted effort to educate decision-makers of applicable international legal obligations. Decision-makers and legal advisers must also work together to increase public awareness of the legal issues and obligations involved in a decision.

War criminals must not be allowed to go unpunished and to roam free – as most have in the former Yugoslavia. The Security Council, the international community, and individual states should muster the political resolve to contribute the necessary assets to bring them all to justice. If the operational costs are too high, as in an attempt to seize Baghdad and arrest Saddam Hussein, then the international community should

⁴¹ See Michael D. Sandler, *Recommendation and Supporting Report on the Convention on the Safety of United Nations and Associated Personnel*, 1996 A.B.A. SEC. INT’L L. & TRADE, reprinted in 31 INT’L LAW. 195, 197 (1997).

⁴² See Walter Gary Sharp, Sr., *Revoking an Aggressor’s License to Kill Military Forces Serving the United Nations: Making Deterrence Personal*, 22 MD. J. INT’L L. & TRADE ___, ___, (1998) for a detailed discussion of this state practice.

⁴³ Ambassador Max M. Kampelman, *Foreword* to MOORE, *supra* note 1, at xxv, xxvii.

convene an international tribunal and conduct trials in absentia. The Chief Prosecutor of the International Tribunal for the former Yugoslavia concluded that “if there is no enforcement of international humanitarian law, people are going to ignore it. If any laws are not enforced, you might as well not have them.”⁴⁴ If the international community is willing to embrace its failure to arrest war criminals, it “will never achieve a meaningful rule of law or enforce humanitarian principles in settings of armed conflict.”⁴⁵

The international community must also provide greater legal protections to the military forces that serve to maintain international peace and security. A new convention is required to make a fundamental shift in the application of international law as dramatic as creating a new category of protected persons.⁴⁶ The parameters of the new protected category for military forces serving the United Nations must judiciously balance three, potentially competing interests. First, the new paradigm must afford the maximum protection available under international law for the military forces acting on behalf of the international community. Second, the new paradigm must be established in such a way that it can be fairly applied to the individual combatants that may be ordered by their national leadership to attack military forces serving the United Nations. Finally, the new paradigm must not adversely impact the protections accorded noncombatants by international humanitarian law.

The conceptual rationale for this new protected category is that military forces serving the United Nations are international policemen – they protect and serve the international community by maintaining international peace and security. Thus, this new modality is limited to protecting only military forces serving under the authority or direction of the United Nations. This proposal does not change the application of the laws of armed conflict to international armed conflicts between states not acting under the authority of the United Nations.

These military personnel serving the United Nations, however, cannot be allowed to operate without restrictions. The most important characteristic of this new protected status is that it does not change the application of the existing laws of armed conflict to United Nations forces or to the combatants of an aggressor state but for one exception. It simply creates a new category of protected persons under international law – all military forces who serve the international community under the authority of the United Nations would be unlawful targets under all circumstances.

In practice, this new paradigm allows combatants of an aggressor state to be ordered into armed conflict by their national leadership without questioning the lawfulness of the order. If their national leadership has engaged in a crime against peace through the unlawful use of force, then the individual combatants are not charged with a crime against peace. When and if the combatants of an aggressor state find themselves opposed

⁴⁴ Richard Goldstone, *Serious war crimes should be dealt with by Permanent International Criminal Court*, UN CHRONICLE, Vol. XXXIII, No. 2, 1996, at 35, 35.

⁴⁵ See MOORE, *supra* note 1, at 306.

⁴⁶ See Walter Gary Sharp, Sr., *Revoking an Aggressor’s License to Kill Military Forces Serving the United Nations: Making Deterrence Personal*, 22 MD. J. INT’L L. & TRADE ___, ___, (1998) for a detailed discussion of the parameters of such a new protected category. See Walter Gary Sharp, Sr., *Protecting the Avatars of International Peace and Security*, 7 DUKE J. COMP. & INT’L L. 93, 175-83 (1996) for a “Draft Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Civilians and Military Forces operating under the authority of the United Nations (Protocol III)” that would advance and codify a protected status for military forces serving the United Nations. This draft Protocol III is reproduced at Annex A to this paper.

by military forces identified as serving under the authority of the United Nations, however, they would have an obligation to lay down their weapons and surrender. Similarly, their commanders have an obligation to surrender their units to United Nations forces. These individual combatants and their commanders will not have committed a crime until such time they have fired upon or otherwise knowingly attacked military forces they have identified as serving under the authority of the United Nations.

In addition to the application of the laws of armed conflict to military personnel serving the United Nations, a separate convention should be created that will set out the obligations and responsibilities of these military forces while serving the United Nations in support of complex humanitarian crises. Such a convention should tailor accepted principles of international humanitarian law to military forces serving in non-combatant roles at the direction of the United Nations.

State practice has changed, but the law has not. Existing international law does not provide clear or adequate protections or guidance for military forces serving the United Nations. It is clear, however, that the international community expects military forces to take on new coercive peace-keeping and combatant missions assigned to them by the United Nations. The rule of law must be clarified and advanced, and once defined, it *must* be enforced. It is time for the international community to openly embrace the principle that military forces who serve under the authority of the United Nations are international policemen and unlawful targets under all circumstances, regardless of whether they serve as consensual peace-keepers or belligerent peace-enforcers.

Annex A

DRAFT PROTOCOL ADDITIONAL TO THE GENEVA CONVENTIONS OF 12 AUGUST 1949, AND RELATING TO THE PROTECTION OF CIVILIANS AND MILITARY FORCES OPERATING UNDER THE AUTHORITY OF THE UNITED NATIONS (PROTOCOL III)

PREAMBLE

The High Contracting Parties,

Proclaiming that civilian and military personnel operating under the authority of the United Nations are servants of the international community and deserve the maximum protection of international and domestic law under all circumstances,

Recalling that every State has the duty, in conformity with the Charter of the United Nations, to refrain in its international relations from the threat or use of force against the sovereignty, territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations,

Condemning the threat or use of force by any State except in lawful self-defense as authorized by international law and recognized by Article 51 of the Charter,

Recognizing the critical role of United Nations military forces in the maintenance of international peace and security,

Aware of the changing nature of peace operations and the necessity, under some circumstances, to authorize military forces to use armed force to accomplish the mandate of the Security Council,

Reaffirming the rules of international humanitarian law pertaining to the conduct of hostilities, particularly the rules contained in the four Geneva Conventions of 1949 and the two Geneva Protocols of 1977 pertaining to the protection of victims of armed conflicts,

Confirming the application of these rules of international humanitarian law to military forces operating under the authority of the United Nations,

Noting, however, that traditional distinctions between *jus in bello* and *jus ad bellum* are not applicable in the contemporary era of the United Nations,

Declaring, therefore, that civilians and military members of United Nations forces are protected persons at all times,

Endorsing the customary practices and principles applicable to United Nations operations codified in the draft Model Status-of-forces agreement between the United Nations and Host Countries,

Concerned over the growing attacks against civilians and military forces operating under the authority of the United Nations,

Emphasizing the need to ensure better protection for all civilians and military forces who serve the United Nations,

Conscious of the international nature of crimes against the safety of these civilians and military forces who serve the United Nations,

Mindful of the role of international criminal tribunals, and

In honor of the memory of those civilian and military personnel who have died while in the service of the international community,

Have agreed on the following:

PART I: GENERAL PROVISIONS

Article 1 – Scope of application

1. This Protocol, which develops and supplements international humanitarian law without modifying its existing conditions of application except as expressly provided herein, shall apply to all United Nations and associated personnel during the conduct of all United Nations operations in a host State and while in transit to such host State.
2. This Protocol shall be applied without any adverse distinction founded on race, colour, sex, language, religion or belief, political or other opinion, national or social origin, wealth, birth or other status, or on any other similar criteria (hereinafter referred to as 'adverse distinction'), to all persons affected by the application of Article 1.
3. Nothing in this Protocol shall be invoked for the purpose of affecting the sovereignty of a State or the responsibility of the government, by all legitimate means, to maintain or re-establish law and order in the State or to defend the national unity and territorial integrity of the State.
4. Nothing in this Protocol shall be invoked as a justification for intervening, directly or indirectly, for any reason whatever, in the armed conflict or in the internal or external affairs of any State in the territory of which that conflict occurs.

Article 2 – Definitions

For the purposes of this Protocol:

1. "United Nations personnel" means:

- a. Persons engaged or deployed by the Secretary-General of the United Nations as members of the military, police or civilian components of a United Nations operation; or,
- b. Other officials and experts on mission of the United Nations, its specialized agencies, or the International Atomic Energy Agency who are present in an official capacity in either a host or transit State.

2. "Associated personnel" means persons:

- a. Assigned by a Government or an intergovernmental organization with the agreement of the competent organ of the United Nations;
- b. Engaged by the Secretary-General of the United Nations, a specialized agency, or the International Atomic Energy Agency; or,
- c. Deployed by a humanitarian non-governmental organization or agency under an agreement with the Secretary-General of the United Nations, a specialized agency, or the International Atomic Energy Agency;

to carry out activities in support of the fulfilment of the mandate of a United Nations operation.

3. "United Nations operation" means an operation established or authorized by the competent organ of the United Nations in accordance with the Charter of the United Nations.
4. "Host State" means a State in whose territory a United Nations operation is conducted.
5. "Transit State" means a State, other than the host State, in whose territory United Nations and associated personnel are in transit or temporarily present in connection with a United Nations operation.
6. "Intentional commission" means actual knowledge of the victim's status as United Nations or associated personnel.
7. "International criminal tribunal of competent jurisdiction" means any tribunal established by the competent organ of the United Nations in accordance with the Charter of the United Nations or established by international convention that has jurisdiction over any of the offenses as set forth in Article 4 of this Protocol.

PART II: REPRESSION OF BREACHES

Article 3 – Duty of all States to respect and protect

1. United Nations and associated personnel may in no circumstances be attacked or subject to any action that prevents them from discharging their mandate; they shall be respected and protected in all circumstances. They shall be treated humanely and cared for by all States without any adverse distinction.
2. Fixed establishments and all means of transportation of any United Nations or associated personnel may in no circumstances be attacked.

Article 4 – Enumerated crimes

1. The intentional commission of:
 - a. murder, kidnapping or other attack upon the person or liberty of any United Nations or associated personnel;
 - b. a violent attack upon the official premises, the private accommodation or the means of transportation of any United Nations or associated personnel likely to endanger his or her person or liberty;
 - c. a threat to commit any such attack with the objective of compelling a physical or juridical person to do or to refrain from doing any act;
 - d. an attempt to commit any such attack; and,
 - e. an act constituting participation as an accomplice in any such attack, or in an attempt to commit such attack, or in organizing or ordering others to commit such attack;

shall be made by each State Party a crime under its national law.

2. Each State Party shall make the crimes set out in paragraph 1 of this article, wherever and by whomsoever they may occur, punishable by appropriate penalties which shall take into account their grave nature, and shall take all appropriate steps to protect United Nations and associated personnel from such crimes.

Article 5 – Identification

1. To facilitate identification and ensure maximum protection, all United Nations and associated personnel may be issued appropriate identification documents to carry, and shall wear, whenever practicable, the distinctive emblem of the United Nations in addition to any other national markings.
2. Fixed establishments and all means of transportation of any United Nations or associated personnel shall be similarly marked, whenever practicable, with the distinctive emblem of the United Nations and may fly the distinctive flag of the United Nations in addition to any other national markings or flags.
3. The protected status of United Nations and associated personnel attaches by virtue of their association with the United Nations. The failure of United Nations and associated personnel to carry appropriate identification documents or to wear distinctive markings shall not in any way affect their protected status.

Article 6 – Duty within host and transit States to release

1. Except as otherwise provided in an applicable status-of-forces agreement, if United Nations or associated personnel are captured or detained within a host or transit State and their identification has been established, they shall not be subjected to interrogation, and they shall be promptly released and returned to United Nations or other appropriate authorities. Pending their release, such personnel shall be treated in accordance with universally recognized standards of human rights and the principles and spirit of the four Geneva Conventions of 1949.
2. The United Nations or other appropriate authorities shall be immediately notified of the detention of persons who claim to be United Nations or associated personnel whose identification cannot be promptly established. Such detained persons shall not be subjected to interrogation and shall be treated in accordance with universally recognized standards of human rights and the principles and spirit of the Geneva Conventions of 1949 until their identification has been established.

3. Any dispute that arises concerning the identification of United Nations or associated personnel shall be submitted promptly to the Secretary-General. The decision of this matter by the Secretary-General shall be final.

Article 7 – Duty of State Parties to ensure safety and security

1. State Parties shall disseminate this Protocol as widely as possible, and, in particular, to include the study thereof in their programs of military instruction and, if possible, civil instruction, so that the principles thereof may become known to the entire population.
2. State Parties shall take all appropriate measures within and outside their respective territories to ensure the safety and security of United Nations and associated personnel, and shall cooperate with the United Nations, any international criminal tribunal of competent jurisdiction, and all other States, as appropriate, in

the implementation of this Protocol, particularly in any case where the host State is unable itself to take the required measures.

3. State Parties shall cooperate with the United Nations, any international criminal tribunal of competent jurisdiction, and all other States in the prevention of the crimes set forth in Article 4 by:

- a. taking all practicable measures to prevent preparations in their respective territories for the commission of such crimes within or outside their territories; and,
- b. exchanging information and coordinating the taking of administrative and other measures as appropriate to prevent the commission of such crimes.

4. State Parties have an affirmative obligation to search for, arrest, and either prosecute or extradite, all persons suspected of having committed a crime as set forth in Article 4.

- a. State Parties which elect not to extradite a suspect, shall, without exception and without undue delay, submit the case to its competent authorities for the purpose of prosecution. The final outcome of these proceedings shall be promptly reported to the Secretary-General of the United Nations and announced publicly.

- b. To the extent necessary, State Parties shall utilize this Protocol as the legal basis for extradition to any international criminal tribunal of competent jurisdiction or to any other State, and shall enact national legislation as required to implement their obligation to extradite as set forth in this paragraph.

5. State Parties shall, upon request, cooperate to the greatest extent possible with the United Nations, any international criminal tribunal of competent jurisdiction, and all other States in their respective efforts to search for, arrest, prosecute, or extradite any person suspected of having committed a crime as set forth in Article 4.

6. State Parties shall promptly transmit, to the Secretary-General of the United Nations, any international criminal tribunal of competent jurisdiction, and all other States concerned, all pertinent information it has concerning the victim, alleged offender, or circumstances of any crime set forth in Article 4.

PART IV: FINAL PROVISIONS

Article 8 – Savings clause

Nothing in this Protocol shall affect:

1. The inherent right of United Nations and associated personnel to act in self-defense;
2. The rights and obligations of all States, consistent with the Charter of the United Nations, regarding the consent to entry of persons into their territories;

3. The obligation of United Nations and associated personnel to act in accordance with the terms of the mandate of a United Nations operation;

4. The right of all States which voluntarily contribute personnel to a United Nations operation to withdraw their personnel from participation in such operation; or,

5. The entitlement to appropriate compensation payable that may be due from whatever source in the event of death, disability, injury, or illness attributable to peace-keeping service claimed by persons, or their heirs, voluntarily contributed by States to United Nations operations.

Article 9 – Dispute resolution

1. Except as provided in paragraph 3 of Article 6 of this Protocol, any dispute between two or more State Parties concerning the interpretation or application of this Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by application in conformity with the Statute of the Court.

2. Except for the dispute settlement provision of paragraph 3 of Article 6 of this Protocol, a State Party may at the time of signature, ratification, acceptance, or approval of this Protocol, or accession thereto, declare that it does not consider itself bound by all of part of paragraph 1 of this article. The other State Parties shall not be bound by paragraph 1 of this article or the relevant part thereof with respect to any State Party which has made such a reservation.

3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 10 – Review meetings

At the request of one or more State Parties, and if approved by a majority of the State Parties, the Secretary-General of the United Nations shall convene a meeting of the State Parties to review the implementation of the Protocol, and any problems encountered with regard to its application.

Article 11 – Signature

This Protocol shall be open for signature at United Nations Headquarters in New York by all States for six months after the signing of the Final Act and will remain open for a period of twelve months.

Article 12 – Ratification, acceptance or approval

This Protocol is subject to ratification, acceptance, or approval. Instruments of ratification, acceptance, or approval shall be deposited with the Secretary-General of the United Nations.

Article 13 – Accession

This Protocol shall be open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 14 – Entry into force

1. This Protocol shall enter into force thirty days after twenty-two instruments of ratification, acceptance, approval, or accession have been deposited with the Secretary-General of the United Nations.
2. For each State ratifying, accepting, approving, or acceding to the Protocol after its entry into force, the Protocol shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification, acceptance, approval, or accession.

Article 15 – Denunciation

1. A State Party may denounce this Protocol by written notification to the Secretary-General of the United Nations.
2. Denunciation shall take effect one year following the date on which notification is received by the Secretary-General of the United Nations.

Article 16 – Authentic texts

The original of this Protocol, of which the Arabic, Chinese, English, French, Russian, and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.